

Official Gazette



REPUBLIC OF THE PHILIPPINES

EDITED AT THE OFFICE OF THE PRESIDENT, UNDER COMMONWEALTH ACT NO. 638
ENTERED AS SECOND-CLASS MATTER, MANILA POST OFFICE, DECEMBER 26, 1905

VOL. 54

MANILA, PHILIPPINES, DECEMBER 15, 1958

No. 36

TABLE OF CONTENTS

	Page
THE OFFICIAL WEEK IN REVIEW	dxiii
DEPARTMENT AND BUREAU ADMINISTRATIVE ORDERS AND REGULATIONS:	
DEPARTMENT OF JUSTICE—	
OFFICE OF THE SOLICITOR GENERAL—	
Administrative Order No. 173, designating Messrs. Bartolome G. Viola, Benjamin V. Nuñez, Archimedes de Guzman, Expedito Cadena, Angel R. Miclat, Irinco B. Geronimo, Marcelino Agana, Jr., and Benedicto M. Arbizo, all of the Anti-Dummy Board to assist in the investigation of all violations of Anti-Dummy cases	8213
DEPARTMENT OF COMMERCE AND INDUSTRY—	
SUGAR QUOTA ADMINISTRATION—	
Philippine Sugar Order No. 5, series of 1958-59, authorizing the use of 1958-1959 sugar production to fill the 1957-58 "D" quota	8213
Quota Administration Order No. 3, amending quota administration order No. 2, dated November 13, 1958	8213
NO DOLLAR IMPORT OFFICE—	
Circular No. 3, series 1958	8214
APPOINTMENTS AND DESIGNATIONS	8215
HISTORICAL PAPERS AND DOCUMENTS:	
The President's reply and toast to emperor at the Imperial Banquet given in his honor	8216
The President's speech before the Japanese Diet in Tokyo, Tuesday, December 2, 1958..	8217
President Garcia's address before a banquet in honor of the Emperor and Empress of Japan December 3, 1958	8219
President Garcia's speech before an informal Japanese dinner given by the Philippine consul, Gaismucho, representative and president of the Philippine Society at Osaka, at 7:30 p.m. (Tokyo time), Thursday, December 4, 1958	8220
DECISIONS OF THE SUPREME COURT:	
Eloisa C. Aguilar, in her own behalf and as Judicial Administratrix of the Intestate	
.....	82649
of the late José S. Aguilar, plaintiff and appellant, vs. Serafin R. Gamboa, defendant and appellee	8223
The People of the Philippines, plaintiff and appellee vs. Florentino Enguero, et al., defendants and appellants	8227
The People of the Philippines, plaintiff and appellee vs. Marina Padan y Alova et al., defendants. Marina Padan y Alova and Jose Fajardo, defendants and appellants	8232
The People of the Philippines, plaintiff and appellee, vs. Fernando Togonon, et al., defendants and appellants	8237
Elizabeth Constantino, minor, represented by her mother Lourdes Hisola, guardian <i>ad litem</i> and Lourdes Hisola, petitioners, vs. the Court of Appeals, et al., respondents..	8242
DECISIONS OF THE COURT OF APPEALS:	
The People of the Philippines, plaintiff and appellee, vs. Serapio Pedrasa, defendant and appellant	8246
Felisa Andino, Maximina Rosaut, Eusebio Boholano, Maria Espares, and Ludovina Gomez, plaintiffs and appellants, vs. Standard Vacuum Oil Company, defendant and appellee	8251
The People of the Philippines, plaintiff and appellee, vs. Apolonio Caburao, defendant and appellant	8259
The People of the Philippines, plaintiff and appellee, vs. Suela Paalam, defendant and appellant	8263
LEGAL AND OFFICIAL NOTICES:	
Courts of First Instance	8269
Land Registration Commission	8319
Bureau of Mines	8387
Bureau of Public Works	8393
Notices of Application for Water Rights	8393
Bureau of Public Highways	8396
Civil Aeronautics Administration	8397
City of Manila	8397
Philippines Patent Office	8399

OFFICIAL WEEK IN REVIEW

December 7.—**P**RESIDENT and Mrs. Garcia this morning received His Eminence Gregory Peter XV Cardinal Agagianian who will be their house guest in Malacañang for the duration of his stay in the Philippines.

The papal legate presented to the President a letter from His Holiness Pope John XXIII written in Latin announcing his election as Chief Shepherd of the Catholic Church and assuring that he will continue to show to the Filipinos the same benevolence and favor shown by his predecessor, the late Pope Pius XII.

During an informal conversation that followed shortly after his arrival at Malacañang, Cardinal Agagianian, who is representing the Holy Father at the inaugural rites of the newly rebuilt Manila Cathedral, told the Chief Executive and the First Lady that the Cathedral is worthy of a great Catholic nation like the Philippines.

Cardinal Agagianian arrived at Malacañang at exactly 11:30 a.m. accompanied by Mons. Egidio Vagnozzi, Apostolic Nuncio to the Philippines, and members of his retinue.

After receiving and acknowledging military honors accorded him by elements from the Presidential Guard Battalion, the papal legate went up the Palace escorted by Assistant Executive Secretary Enrique C. Quema; Col. Emilio Borromeo, senior presidential aide; and Manuel Zamora, Malacañang protocol officer.

They were met at the head of the stairs by President and Mrs. Garcia and Executive Secretary Juan C. Pajo.

In the party of Cardinal Agagianian were Mons. Arthur Di Jorio, domestic prelate of the papal mission; Mons. Adonei Terzariol, master of ceremonies of the papal mission; Count Vajola Parisani, chamberlain of cape and sword of the Cardinal; Rev. John Manning, private secretary; and Commendatore Leopold Antonelli, personal valet.

Following a cordial 20-minute exchange of pleasantries, President Garcia showed the visiting church dignitary the room that he and his secretary will occupy at the Palace, the former bedroom of the late President Ramon Magsaysay. Then Mons. Vagnozzi and the other members of the cardinal's party took their leave.

President and Mrs. Garcia later had lunch with Cardinal Agagianian at the State dining room of Malacañang.

Others present at the luncheon were Foreign Affairs Secretary Felix-berto Serrano, Executive Secretary Juan C. Pajo, Malacañang Protocol Officer Manuel Zamora, and Rev. John Manning.

December 8.—**T**HE PRESIDENT said today that implementation of the policy of his administration for the upliftment of the rural areas had been further enhanced as a result of his state visit to Japan.

Speaking before the barrio lieutenants who had concluded their second annual convention in Manila, the President said he is studying ways and means to develop the local cottage industries. He stated that the bamboo industry of Japan could be established in the country to increase the income of the masses in the rural areas.

The President told the barrio lieutenants that the Mitsubishi companies had presented him with \$25,000 worth of tillers. This gift, plus 5,000 bags of fertilizer donated by the Marubeni Iida Company, will be distributed to the rural areas, the President said.

The President also made mention of the success of the Administration in boosting the rice and corn production of the country. The rice production this crop year is so bountiful that the Philippines will not import rice for the first time in many decades, he said, while the government is studying a proposal to export corn to Japan in view of a bumper corn crop.

He assured the barrio heads that, coming as he does from a barrio, he is determined to push through the plan to uplift the living conditions in rural areas.

The President also received Iwataro Uchiyama, governor of the Kanagawa prefecture, who headed a Japanese delegation to attend the consecration and inauguration of the Manila Metropolitan Cathedral.

Uchiyama, who was educated in Spain, conversed with the President in fluent Spanish. He was accompanied by Nobu Sato, president of the Kanagawa-Ken War Dead Families Association, Yosoe Ogimi, and H. Nakazawa.

The President also received a delegation of Tondo tenants led by Aurelio Briones, president of the "Pinagsamang Lakas Ng Tondo Tenants Federation," who brought to his attention the problems of the tenants.

Briones complained that the Tondo tenants are being harassed by the landowners who are imposing very high rentals and ejecting them from the premises. He requested that the Land Tenure Administration be directed to file expropriation proceedings with the courts to protect the interests of the tenants.

The President assured Briones that he would discuss the matter with LTA officials.

Earlier, President and Mrs. Garcia heard a pontifical mass and *Te Deum* at the Manila Cathedral on the occasion of the feast day of Our Lady of the Immaculate Conception, patroness of the Cathedral.

After mass, the President was greeted by the junior city government officials of Manila, led by "Mayor" Aurora Fajardo and "Vice-Mayor" Angeles Morales, who came to Malacañang to pay their respects.

Then he had his breakfast at about 11 a.m., together with Mrs. Garcia and Speaker and Mrs. Daniel Z. Romualdez, who had returned to Malacañang with them from the cathedral.

The President did not receive any callers in the afternoon.

President Garcia today issued a call for a meeting of his Council of State for Tuesday, December 16, to discuss his recent five-day state visit in Japan.

The President said that he would create a committee to take charge of the distribution of 5,000 bags of fertilizers donated by the Marubeni Iida Company in Tokyo which had been presented to him during his state visit in Japan. He said he wanted to make sure that the fertilizers reached the rural areas, particularly small farmers.

Other donations received by the President and the First Lady during their sojourn in Japan included \$25,000 worth of tillers from the Mitsubishi companies and \$5,000 for the Malacañang Chilidren's Christmas Festival also from the same company.

The President this morning received from Executive Secretary Juan C. Pajo the report of Justice Secretary Jesus Barrera on the administrative investigations of suspended Finance Undersecretary Jose P. Trinidad and Director Laureano Marquez of the Bureau of Animal Industry.

The report had been forwarded to Malacañang several days ago when the President was still in Japan. Secretary Pajo delivered it to the President this morning in an unopened, sealed envelope.

December 9.—**T**HIS morning, His Eminence Gregory Peter XV Cardinal Agagianian offered a mass for President and Mrs. Garcia at the Malacañang chapel at 8 a.m.

Besides the President and Mrs. Garcia, members of the Cabinet and their ladies also heard the mass.

PRESIDENT Garcia this afternoon received Vice-Admiral Frederic N. Kivette, commander of the U. S. Seventh Fleet, who called at Malacañang to pay his respects following his recent arrival in Manila.

Accompanied by Vice-Admiral Roland Smoot, commander of the Taiwan Defense Command, Admiral Kivette is visiting Manila for the first time since he assumed command of the Powerful U. S. Seventh Fleet recently.

The two visiting admirals were accompanied to Malacañang by U. S. Ambassador Charles Bohlen; Rear Admiral Edgar Cruise, commander of the U. S. naval forces in the Philippines; and Captain John Myers, naval attache of the U. S. Embassy in Manila.

The President also received this afternoon Mons. Jose Ma. Cuenco, archbishop of Jaro, Iloilo, who presented him with a book entitled "South America as Seen By a Filipino Archbishop." The new book contains the bishop's observations during his recent trip to the South American countries.

Dedicated to President Garcia, the book which recently came off the press contains the following inscription: "To Carlos P. Garcia, President of the Philippine Republic, Illustrious Hispanista and Promoter of Goodwill Between Spain and Latin American Countries."

President and Mrs. Garcia honored visiting Papal Legate, Gregory Peter XV Cardinal Agagianian, with a formal dinner at 8:00 o'clock this evening at the Palace.

Acting Senate President Fernando Lopez, Speaker Daniel Z. Romualdez, and Chief Justice Ricardo Paras of the Supreme Court headed high government officials and members of the diplomatic corps who attended the state dinner.

December 10.—PRESIDENT Garcia signed today several *ad interim* appointments at a conference held at Malacañang with Assistant Executive Secretary Enrique Quema.

The appointments: Dominador Padilla, assistant provincial fiscal, Negros Oriental; Basilio M. Toquero, assistant provincial fiscal, Nueva Vizcaya; Ambrosio Aggabao, clerk of court, Ilagan, Isabela.

As justices of the peace: Narciso Albano, Cabagan, Isabela; Manuel Letaba, Allen, Samar; Norberto Tizon, Jr., San Isidro, Samar; Napoleon Victoriano, Despujol, Romblon; Hilario Capotulan, Olutanga, Zamboanga del Sur; Vicente Rudas, Mahaplag, Leyte; Leovigildo Gotico, San Jose, Nueva Ecija; Juanito Panganiban, San Juan, Batangas.

As auxiliary justices of the peace: Marcelino Andrada, Sison, Pangasinan; David Concepcion, Pasig, Rizal.

Earlier, President and Mrs. Garcia heard the mass said at the Malacañang chapel by his Eminence Gregory Peter Cardinal Agagianian.

At the breakfast following the mass, President and Mrs. Garcia presented the visiting prelate with a piña set for the altar, a cane, and a box of cigars.

After breakfast, the President received C. V. Starr, president of the C. V. Starr Enterprises, who had just arrived in Manila in the course of a world tour. Starr was accompanied by Earl Carroll, PHILAMLIFE president; Felino Neri and C. A. Roche, president and board chairman of the American International Underwriters of the Philippines, respectively; and C. L. Seitz, vice-president of the American International Underwriters Overseas.

The President commended today Herman Nubla, former chief of the records section of the Presidential Committee on Administration Performance Efficiency, for efficiency in the performance of his duties.

The President's commendation was disclosed in a letter addressed to Nubla by Executive Secretary Juan C. Pajo, who stated that Nubla had been singled out by PCAFE Chairman Buenaventura Ocampo as the model supervisor because of his "success in bringing about various material improvements in your section and your introduction of numerous technical innovations which account for the now efficient management of records in your office."

PRESIDENT Garcia early this afternoon received Senate President and Mrs. Eulogio Rodriguez, who just returned from a four-month world tour aboard the APL luxury liner, the *SS President Wilson*.

Executive Secretary Juan C. Pajo, representing President Garcia, and Mrs. Leonila D. Garcia were among those on hand to welcome the Rodriguezes.

From Pier 9, the Senate President and Secretary Pajo led a motorcade to Malacañang. Among those who joined the motorcade and accompanied the returning couple to the Palace were Speaker and Mrs. Daniel Z. Romualdez, Sen. Fernando Lopez, members of both chambers of Congress, Quezon City Mayor Norberto Amoranto, and others.

President Garcia waited for Rodriguezes in the study room of Malacañang, and when they entered the room, he got up to meet them and wish them a warm and hearty "welcome home!"

Senate President Rodriguez gave a brief summary of his observations during his trip abroad, and expressed to the Chief Executive a desire to work immediately on important party matters in order to clear the way for next year's local elections.

After staying 15 minutes, the Rodriguezes left Malacañang to rest while President Garcia retired to his bedroom.

At four o'clock, President Garcia went to the Council of State room to preside over the regular Cabinet meeting.

THE PRESIDENT today instructed the Cabinet committee chairmanned by Finance Secretary Jaime Hernandez to spare the essential services of the government in its determination of items for expenditures that should be reduced in order to meet expected deficits in the general fund during the current fiscal year.

The President's directive was given at the regular weekly Cabinet meeting this evening during which the committee tendered a progress report of its accomplishments since its constitution last December 3.

In the course of the report, Auditor General Pedro Gimenez, committee member, who spoke for the body, disclosed that of the government offices and agencies heard so far by the committee the Department of Education had been proposed for the biggest cut totalling P22,800,000.

Upon learning that this proposed reduction would mean the closing of some schools for as long as three months, the President told the committee that that was going beyond the philosophy of the reduction project.

The President pointed out that only items that could be dispensed and deferred should be reduced. He reminded the committee that under the constitution the education of the youth is one of the prime concerns of the government.

"To sacrifice our educational system to remedy our present economic difficulties would be the height of irresponsibility," the President said.

Budget Commissioner Dominador Aytona, another member of the committee, informed the President that the figures being cited in the committee report were tentative and were, by no means final. The Budget Commissioner expressed certainty that, when the committee had heard all departments and agencies and ready to render a final report, the committee would come up with practical recommendations.

The Cabinet meeting was devoted mainly to discussions reviewing the country's economic setup. Commissioner Aytona contended that the present difficulties were mainly due to the nation's inability to introduce tax reforms that would fit our changing economy. The Budget Commissioner also expressed the need of adjusting our tax system which had been revised in 1935.

The President during the meeting encouraged members of his Cabinet to speak freely on their views on the economy. He said that he would perhaps spend the rest of the month studying economic remedies and re-examining our tax system with the view to finding measures that could be recommended for enactment during the next congressional session.

Others who actively participated in the discussions included Undersecretary of Natural Resources Amado Dalisay and Commerce Secretary Pedro Hernandez.

December 11.—PRESIDENT Garcia this morning enlisted the aid of provincial and city executives in the implementation of the rice procurement program of the Administration at a conference held at his Quezon City residence.

At a conference which President Garcia jointly presided with Senate President Eulogio Rodriguez, Sr., and Speaker Daniel Z. Romualdez, the provincial governors and city mayors were urged to help wage a campaign to inform the farmers of the efforts of the government to raise enough funds to buy palay direct from small farmers at government minimum prices.

The President stated that to meet the new situation posed by bumper crops in rice and corn which for the first time in nearly half a century will make the country self-sufficient in cereals, the government is trying to raise enough funds to enable the National Rice and Corn Corporation to purchase palay price stabilization purposes.

The Agricultural Credit and Cooperative Financing Administration has been directed to help in the implementation of the rice procurement program and the amount of P3 million which it has available will be utilized for the purpose.

Dr. Francisco Sacay, ACCFA assistant administrator, said before the conferees that the government agency will raise an additional fund amounting to P12 million through the sale of its stock of 1.5 million cavans of palay.

During the conference, Executive Secretary Juan C. Pajo bared the difficulties of the NARIC to sell about P20 million worth of stocks on hand owing to the bumper crops.

He pointed out, however, that the NARIC has a balance of P14 million from the credit line extended by the PNB for the importation of rice which can be utilized for the procurement program, provided the Finance Secretary guarantees the payment of the loan.

President Garcia said that present plans of the Administration call for the improvement of the credit facilities to the small farmers and exert efforts to place the financing system of the rice and corn industries on the same footing as the sugar industry utilizing the services of the Philippine National Bank.

Naga City Mayor Monico Imperial proposed a drastic measure to eliminate the monopoly of alien merchants in the rice and corn industries by nationalizing both industries.

The Chief Executive counseled the provincial and city executives to go slow on this proposal which would cause serious consequences and international repercussions at a time when the Philippines is trying to boost its foreign trade.

After discussing the problem facing the rice and corn industries, the governors and city mayors, through Gov. Isidro Rodriguez of Rizal, who is the chairman of the League of Provincial Governors and City Mayors, presented problems of their respective localities to President Garcia.

The conference which was held at the President's Bohol Avenue residence lasted from 9 a.m. to 12:30 p.m. About 50 NP governors and city mayors were present.

THE PRESIDENT issued an executive order today for the reorganization of the Social Welfare Administration, which is expected to result in an estimated savings of P608,000 in relief funds to the government welfare agency.

The executive order authorizes the social welfare administrator to make such changes in the organization, definition of functions, and distribution of work among entities in the SWA as may be necessary to reflect changes in legislation, conditions, needs, or workloads.

The reorganization which will be implemented in accordance with a plan prepared by the Government Survey and Reorganization Commission as provided in R. A. 997, as amended by Republic Act 1241, is in line with the Administration's policy of providing more and better welfare services to the people at lower cost and with increased efficiency.

Among other things, it will put a stop to the present practice of paying salaries and wages from appropriations intended for relief purposes.

Under the reorganization plan, 528 new and permanent positions will be added to the 471 positions currently authorized, and employees at present paid from relief funds, numbering approximately 800, will be considered for appointment to them.

The streamlining of the SWA will also involve the transfer of the SWA clinic to the Department of Health and the transfer of the school facilities at Welfareville to the Department of Education.

IN THE AFTERNOON, the President received Justice Buenaventura Ocampo, chairman of the Presidential Committee on Administration Performance Efficiency. Ocampo, together, with the PCAFE staff, briefed the President on the progress of its work.

The President also received the members of the Chinese goodwill mission who arrived here the other day. The mission was headed by Chang Tsekai. Other members were Lin Chi-yung, George Y. L. Wu, Sunyunsuan, Y. C. Ho, Jerome Sinnan-hu, Chi Shih-chi, Chu Yen-shou, Bunton Wu, Chang Shuin Shuwen, Chow Tai-ye, and Cheng Chua-shih. The group was accompanied by Ambassador Chen Chi-mai.

President Garcia likewise received Thomas P. Collier, director of the Motorola, Inc. Collier presented to the President a transistor radio as a gift of the Motorola president, Robert W. Galvin, to the Philippine Chief Executive.

IN THE EVENING, the President received at his Bohol Avenue residence the members of the Monetary Board of the Central Bank; namely, Gregorio Licaros, Eduardo Z. Romualdez, Gaudencio Antonino, and Roberto T. Villanueva.

The Presidential Committee on Administration Performance Efficiency this evening reported that the country could maintain the stability of the peso, judging from the upward trend of the dollar reserves in the Central Bank.

The PCAFE headed by Justice Buenaventura Ocampo this evening submitted a bulky report to the President on the achievements of the Administration for the last six months.

Highlight of the report was the PCAFE finding that steady rise in production and employment augurs well for the strengthening of the country's economy and in the stability of the Philippine currency.

The PCAFE report virtually spied the fears of some economists who had advocated the devaluation of the peso.

Ocampo, accompanied by Capt. Francisco H. Calinawan, PCAFE vice-chairman, submitted the progress report to the President this evening.

The report touched on the performance of various offices and hailed the "careful management of the Central Bank" which has resulted in the conservation of the foreign reserve, bringing about rise in production and employment.

The PCAFE officials also said "the real income is steadily going up." They pointed out that "gross national production increased by 62 per cent owing to expansion in major economic fields; employment increased from 89.3 per cent in 1949 to 112.4 per cent in 1958 owing to the new industries."

The Malacañang body also stressed that the price of rice had dropped from 100 per cent to 92.02 per cent.

December 12.—PRESIDENT Garcia today conferred with Senate President Eulogio Rodriguez, Sr., and Speaker Daniel Z. Romualdez to map out a legislative program for the coming session of Congress with a view to presenting a more realistic and balanced budget.

The conferees discussed in general the legislative program, and the details, especially the balanced budget, will be threshed out with members of the ways and means and appropriations committees of the House of Representatives and the finance committee of the Senate.

It was agreed that the proposed budget will take care only of the essential needs and services of the government.

The conference held behind closed doors at the President's Bohol Avenue residence in Quezon City, started about 9 a.m., and extended through lunch, until 3 p.m., with slight breaks to allow President Garcia to receive scheduled callers. Executive Secretary Juan C. Pajo was present at the start of the conference but had to leave for his office later in the morning.

After the conference, President Garcia announced that he had outlined to Senate President Rodriguez and Speaker Romualdez the salient points of the legislative measures that the Administration will propose to Congress in January.

The President also said that they reviewed the problems confronting the government, most of which have arisen during the absence of the Senate President, who returned recently from a round-the-world trip which lasted four months.

President Garcia likewise reviewed with the Senate President and the Speaker the achievements of the Administration during the current year and expressed satisfaction that the rice and corn production campaign had been a success.

Rodriguez gave his impressions of his world tour and reported that European nations were in favor of an expanded and reciprocal trade with the Philippines.

During a break in the conference, President Garcia received Sir Alexander Grantham, former governor of the Crown colony of Hongkong and now a top executive of the Shell company, and G. H. W. Churchill, local Shell manager.

The President also received Pascual Perez, world flyweight champion, and Filipino challenger Dommy Ursua, who will meet in a title bout on Monday night at the Rizal Memorial track-football stadium.

The boxers were accompanied by Lazaro Koci and Felipe Segura, manager and trainer of Perez; Stanley Freking, manager of Ursua; Promoter Estanislao Macaraeg; and Francis Yuseco.

Later in the afternoon, the President motored back to Malacañang for the presentation ceremony of the credentials of the new Burmese minister.

President Garcia formally accepted the letters of credence presented by Sithu U Ba Maung, envoy extraordinary and minister plenipotentiary of the Union of Burma, in a ceremony held this afternoon in the ceremonial hall of Malacañang.

In presenting his credentials, the new Burmese envoy said it will be his earnest endeavor to preserve and further strengthen the cordial relations already existing between his country and the Philippines.

In response, President Garcia said Burma and the Philippines are alike in that they are both newly freed Asian nations engrossed in the task of nation-building.

Minister U Ba Maung arrived at Malacañang at 4:30 p.m. accompanied by Col. Emilio Borromeo, senior presidential aide; Pablo R. Suarez, protocol officer of the foreign office; and U Ba Tay, third secretary of the Burmese mission.

A select platoon from the Presidential Guards Battalion stood at present arms in the lobby as the Burmese ministry passed and went up the Palace steps to the ceremonial hall.

After the ceremony, toasts were exchanged to the health of the President of the Union of Burma and to that of the President of the Philippines.

Among those who witnessed the presentation were Foreign Affairs Secretary Felixberto Serrano, Executive Secretary Juan C. Pajo, Malacañang Protocol Officer Manuel G. Zamora, Pablo R. Suarez, protocol officer of the Department of Foreign Affairs, and U Ba Tay, third secretary of the Burmese mission.

After the presentation ceremony, the President administered the oaths of office to the newly-elected officers of the U. P. Women Lawyers Circle (WILOCI).

Those who were sworn in included Mrs. Ameurfina Melencio-Herrera, president; Judge Corazon Juliano Agrava, vice-president; Mrs. Teresita Cruz-Lim, vice-president; Mrs. Ester S. Cruz, secretary; Miss Nelly Herrera, PRO; and Mrs. Gregoria Cruz Arnold, Mrs. Remedios M. Austria, Mrs. Soledad G. Rivera, Mrs. Socorro Tirona Liwag, and Vesta B. Bañez, directors.

After the induction rites, President Garcia returned to his Bohol Avenue residence in Quezon City.

December 13.—**P**RESIDENT Garcia today called upon government-owned and controlled corporations to reduce their operation expenses in line with the austerity measures adopted by the Administration.

In a communication directed to chairmen of government firms this afternoon, the President also said that luncheon board meetings of these firms should be limited to only ₱5 per cover and not to exceed ₱60 per meeting.

He said that the maximum amount set should be sufficient since directors of government corporations do not usually exceed 11 members, including the chairman.

The President issued the directive on being informed that board meetings of these corporate bodies were usually held through luncheons so that the directors could spend that much time attending to other important work in their offices during office hours.

The Chief Executive had also been informed that luncheon board meetings usually were held once or twice a week and entailed meal expenses from ₱100 to ₱150 per meeting, irrespective of the number of the members of the board.

The President also issued today a directive to all department heads to submit annual reports pertaining to their respective offices. The President said he needed the data in the preparation of his yearly state-of-the-nation message which he would deliver to Congress when it re-convenes next month.

He gave the department secretaries until the end of next week as the deadline for the submission of the reports.

The Chief Executive did not receive any caller the whole day. He spent most of his time today at his private study in his Bohol Avenue residence in Quezon City, clearing his desk of important pending papers which had accumulated during his recent six-day absence from the country.

DEPARTMENT AND BUREAU ADMINISTRATIVE ORDERS AND REGULATIONS

Department of Justice

OFFICE OF THE SOLICITOR GENERAL

ADMINISTRATIVE ORDER No. 173

December 2, 1958

DESIGNATING MESSRS. BARTOLOME I. VIO-
LA, BENJAMIN V. NUÑEZ, ARCHIMEDES
DE GUZMAN, EXPEDITO CADENA, ANGEL
R. MICLAT, IRINEO B. GERONIMO, MAR-
CELINO AGANA JR. AND BENEDICTO M.
ARBIZO, ALL OF THE ANTI-DUMMY
BOARD TO ASSIST IN THE INVESTIGA-
TION OF ALL VIOLATIONS ALL ANTI-
DUMMY CASES.

In the interest of the public service and pursuant
to the provisions of Section 1686 of the Revised

Administrative Code, Messrs. Bartolome I. Viola,
Chief Investigator, Benjamin V. Nuñes, Archimedes
de Guzman, Expedito Cadena, Angel R. Miclat,
Ireneo B. Geronimo, Marcelino Agana, Jr. and
Benedicto M. Arbizo, Investigators, all of the Anti-
Dummy Board, are hereby designated to assist all
Provincial and City Fiscals and Attorneys in the
investigation and prosecution of all violations of
anti-dummy and related laws, subject to the direc-
tion and control of Fiscals or Attorneys, without
additional compensation, effective immediately and
to continue until further orders.

This cancels Administrative Order No. 122,
dated August 29, 1958.

JESUS G. BARRERA
Secretary of Justice

Department of Commerce and Industry

SUGAR QUOTA ADMINISTRATION

PHILIPPINE SUGAR ORDER No. 5
Series 1958-1959

November 28, 1958

AUTHORIZING THE USE OF 1958-59 SUGAR
PRODUCTION TO FILL THE 1957-58 "D"
QUOTA.

WHEREAS, according to the records of the Sugar
Quota Administration, there exists in the Philip-
pines 43,000 short tons of "C" sugar of 1957-58
crop, which is convertible to "D" sugar, in accord-
ance with Philippine Sugar Order No. 4, Series
1958-59, dated November 14, 1958, to fill the sugar
quota of 49,000 short tons of the Philippines in the
world market during the calendar year 1958.

Now, therefore, pursuant to the provisions of
Act No. 4166, as amended, and by virtue of the
authority vested in me, it is hereby ordered that:

1. To insure the filling of the 1957-58 "D" quota
without unnecessary delay and to enable the ship-
ment of the corresponding sugar on or before De-
cember 31, 1958, the necessary quantity of sugar
of 1958-59 crop is hereby authorized to be used to
fill the said 1957-58 "D" quota that can not be
filled by the "D" sugar of the 1957-58 crop; pro-
vided, however, that no "D" quedan-permits covering
1958-59 sugar shall be issued after December
15, 1958.

2. After December 15, 1958, all 1957-58 "D"
quota allotment shortages shall be taken over by
the Sugar Quota Administration for reallocation.
Paragraph 6 of Philippine Sugar Order No. 8,
Series 1957-58, dated August 25, 1958, is hereby
modified accordingly.

3. After January 1, 1959, all "D" sugar which
have not been exported to the world market shall
automatically become "C" sugar and all outstand-
ing "D" quedan-permits shall become null and void
and holders of such outstanding "D" quedan-permits
shall present them to the corresponding Mill Com-
pany so that the quantites thereof can be credited
to their "C" sugar accounts.

R. L. PAGUIA
Administrator

Approved:

PEDRO C. HERNAEZ
Secretary of Commerce and Industry

QUOTA ADMINISTRATION ORDER No. 3

December 2, 1958

AMENDING QUOTA ADMINISTRATION
ORDER NO. 2, DATED NOVEMBER 13,
1958.

Quota Administration Order No. 2, dated No-
vember 13, 1958, is hereby amended to read as fol-
lows:

By virtue of the powers conferred upon me by Executive Order No. 238, dated December 14, 1939, export license fees for export permits covering shipments to the United States of all articles of cordage, for which quotas are established for the Philippines in the Philippine Trade Act of 1946, shall be collected in accordance with the following rate:

<i>Articles</i>	<i>Rate of fees</i>
Cordage	₱0.35 per 100 pounds

This Quota Administration Order shall take effect on December 2, 1958.

R. L. PAGUIA
Administrator

Approved:

PERFECTO E. LAGUIO
*Undersecretary of Commerce
and Industry*

NO-DOLLAR IMPORT OFFICE

CIRCULAR No. 3

Series 1958

November 11, 1958

In compliance with the memorandum-directive of the Secretary of Commerce and Industry, dated November 11, 1958, the filing of barter applications for "D" sugar shall be in accordance with the Revised Instructions to Applicants for Barter Trade, with the exception of paragraphs 12 and 15.

CARLOS QUIRINO
Administrator

APPOINTMENTS AND DESIGNATIONS

BY THE PRESIDENT OF THE PHILIPPINES

Ad Interim Appointment

November 1958

Emilio D. Martinez, Esquire, as Foreign Affairs Officer, Class III, November 10.

Antonio C. Basa as Member of the Board of Examiners for Marine Officers, November 24.

Narciso D. Salcedo as Second Assistant Provincial Board Fiscal of Sulu, November 29.

December 1958

Rafael Pargas, PN, as Commodore in the Armed Forces of the Philippines, December 1.

Designation by the President

November 1958

Pedro J. Tinsay as Acting Chairman of the Board of Examiners for Marine Officers, November 28.

December 1958

Amado del Rosario as Acting Member of the Board of Trustees of the Government Service Insurance System, December 4.

HISTORICAL PAPERS AND DOCUMENTS

THE PRESIDENT'S REPLY AND TOAST TO EMPEROR AT THE IMPERIAL BANQUET GIVEN IN HIS HONOR AT 7:30 p.m. (TOKYO TIME), TUESDAY, DECEMBER 2, 1958

MRS. GARCIA and I are deeply grateful for the invitation which Your Imperial Majesty has extended to us to visit Japan and for the warmest welcome accorded to us by your Imperial Majesties and the entire Japanese nation. For such high honor and distinction, may I express here the heartfelt appreciation of my government and the entire Filipino people.

It is indeed a source of spiritual satisfaction that after an estrangement of more than a decade and a half, our two nations have again met in a happy reunion to renew on firmer grounds our old friendship and goodwill.

It is true that in 1956 we have signed the San Francisco Peace Treaty, together with the Reparations Agreement and by these momentous acts the Philippine nation has decided to forgive and forget. But it is equally true that there persists still some mental reservation, some lingering vestiges of the rancour generated by the last war. It is my sincere hope that this occasion, warm with your cordiality and radiant with the famous Japanese hospitality, will mark the full reconciliation of the Filipino and Japanese peoples. And like long-lost friends who have found each other, we will pledge to each other henceforth to live close to each other as good neighbors in genuine and enduring friendship and real mutual understanding.

I share in the confidence expressed by your Imperial Majesty that the goodwill and unity generated by the visit to the Philippines of Prime Minister Nobosuke Kishi and my return visit to this great and beautiful country, upon your Majesty's kind invitation, will be translated into a better and more sincere collaboration between our two countries in political, economic, and cultural fields.

We have several things, in common. We are fellow-Asians. Geographically, we are of the same region, hardly 2,000 miles away from one another. We embrace the same political ideology which is the strongest bond of our oneness with the Free World. In 1935, through our Constitution, we renounced war as an instrument of national policy and in 1947 you incorporated the same transcendental political principle in the Constitution of New Japan.

All of these and many other factors constitute an enduring foundation of lasting friendship between our two countries. All of these constitute the imperatives for our two peoples

to live and collaborate in honor, in peace, and in mutual understanding.

Mrs. Garcia and I, taking advantage of your Majesty's kind invitation, have come to Japan as bearers of the message of reborn goodwill and amity, from the hearts of the Filipino people.

From the spontaneous and warm welcome given us by the entire Japanese nation and from the expressions of noble sentiments from Your Imperial Majesty, from the Japanese press and from other outstanding leaders of this country, I gather incontestable evidences of the spirit of Japan, the spirit of friendliness towards other countries, the spirit of cooperation with the rest of the Free World to achieve enduring peace, prosperity, and happiness for all.

In response to this spirit may I invite the distinguished guests on this memorable occasion to offer a toast for the continued good health and happiness of their Majesties, the Empress and Emperor of Japan and for the continued prosperity of the Japanese people.

THE PRESIDENT'S SPEECH BEFORE THE JAPANESE DIET IN TOKYO,
TUESDAY, DECEMBER 2, 1958

I DEEPLY appreciate the opportunity to speak to the Japanese nation through their constitutional representatives in the Diet. This is a high distinction you have so generously accorded on my humble person.

I have come to your beautiful country upon the gracious invitation of His Imperial Majesty, the Emperor of Japan, and His Excellency, the Prime Minister. The invitation struck a responsive chord in my heart because it betokened a genuine and sincere desire on the part of the Japanese government and people for the restoration of the normal relations of friendship and amity that had existed for centuries but which, unfortunately, were interrupted by the last war. The fact that this state visit I am making has received the unanimous endorsement of the Council of State of my country, the counterpart of your Council of Elders, bespeaks a similar desire on the part of my government and people. It is true that the lapse of twelve years has not completely healed the wounds and erased the last vestige of ill will that had been engendered by that cataclysmic event, but calm reflection has led to the conviction among our people that renewal of cordial relations would be the wisest course of action to follow at this juncture.

We have been encouraged to take this view by two significant developments; namely, Japan's agreement to make reparations payment and her renunciation of war as an instrument of national policy. The first revealed the willingness of the Japanese people to make amends and to pay

at least partially for the damage, material and otherwise, suffered by my country and people as a result of the war. The second manifests a realization of the wisdom of friendly intercourse and serves as an assurance that the policy of waging wars of aggression has become a thing of the past. We in the Philippines welcome this development, for it agrees with the temper of my people, who made this same renunciation through our Constitution more than two decades ago.

Last year we had the honor of a visit from His Excellency, Premier Nobusuke Kishi. It was a fruitful visit, for it paved the way for better understanding between your people and mine. I am returning his visit in the hope and confidence that by so doing I shall be helping in strengthening further the desire of our peoples to live together as good neighbors in this part of the world. It is my aim and desire to lead my people in writing a new chapter in Japan-Philippine relations, one that shall be characterized by friendship and cordiality. It is a happy coincidence that my trip is being made close to the Christmas season, which in my country and the rest of Christendom is the season for reconciliation, for forgiving and forgetting.

Geographical propinquity as well as historical affinity would seem to make it logical, not to say necessary, for our two countries to be on friendly terms. In the first place, both countries are close neighbors, being separated by less than two thousand air miles, a negligible distance in this age of the jet plane. Both of them lie at the cross-roads of trade between the East and the West. And both occupy strategic positions in the defense of Southeast Asia and the Pacific basin. These are the inexorable fact of geography which cannot be ignored without doing violence to the realities of our actual situation.

Then, too, historians tell us that Japan-Philippine relations are of long standing. These relations must have started before the coming of the Spaniards because when the latter found Manila in 1571, there was already a small Japanese colony in the locality. And at the outbreak of the war thousands of your countrymen were living in my country to trade and to engage in agriculture and fishing. And because of this association, the impact of your culture has had an enriching influence upon our own.

Thus it can be seen that there are compelling reasons for the maintenance of friendly relations between our two peoples. This overriding consideration in this relationship is our mutual security, for a portentous drama of titanic proportions is unfolding in our midst. By the imperatives of geographical location, your country and mine are within the orbit of that danger. We have active roles to play in this drama. As two of the countries in the Far East that

have come under the beneficent influence of democracy, it would be to our mutual interest to keep a singleness of purpose to the end that peace may be preserved in this area. I cherish the hope that my visit will serve that end and will help in ushering in a new era in Japan-Philippine relations—one of peace and friendship that shall grow stronger and stronger each passing year.

**PRESIDENT GARCIA'S ADDRESS BEFORE A BANQUET IN HONOR
OF THE EMPEROR AND EMPRESS OF JAPAN, DECEMBER 3, 1958**

YOUR MAJESTY,
YOUR EXCELLENCIES,
DISTINGUISHED GUESTS,
LADIES AND GENTLEMEN:

YOU have honored me greatly with your presence in this modest banquet. I appreciate the pleasure of your company and hope that our pleasant if brief association is symbolic of the friendship between our two nations which your people and mine sincerely desire. Since my arrival in your beautiful country I have received many evidences of this great nation's cordiality and hospitality, for all of which I am most grateful on my own and Mrs. Garcia's behalf and on behalf of my people.

I like to think that such a friendship between this country and mine is now a-building. The recent visit to the Philippines of His Excellency, the Honorable Nobosuke Kishi, greatly improved the relations of our two peoples. I hope that my present sojourn in Japan, in response to the kind and cordial invitation of their Imperial Majesties and the Primier, can contribute to the same end.

This great country, I dare say, can still rekindle our pre-war hope, provided it can lay down a completely new foundation of good relations with all Asia, so bold and so imaginative that it will be a courageous answer to the challenge to our troubled times. A part of this new Japanese approach to the problems of Asia should be, to my mind, full cooperation with those nations of the world, whether of the East or of the West, in good faith and with honorable, humanitarian, and philanthropic intentions, are helping to accelerate the social and economic development of Asian countries while preserving the liberties of their peoples.

Another Japanese approach which I feel essential to a new friendship and amity is to help protect Asia from the menace of the new imperialism that threatens the entire world. Japan will earn the gratitude of all Asians by assisting in protecting Asia from this spreading terror.

Further than this I dare suggest that Japan should lead in an Asian renaissance in a truly humanitarian spirit.

This country can once more win Asia's admiration and respect by advancing and sharing its science and technology, its industry and economy, its scholarship and philosophy, not as master and oppressor, not as conqueror and exploiter, but as an enlightened and sincere friend.

Speaking for the Philippines alone, I would like to state that there are additional bases of amity and friendship which my nation and this dynamic nation can cultivate. One of the nearest neighbors in this part of the world, our countries can and should mutually respect and follow the good-neighbor policy. The only two nations in Asia that have come under direct influence of democratic United States, the Philippines and Japan have in this common experience another basis of mutual understanding and deep cultural affinity. These facts establish between us a point of mutuality and impose upon us the shared duty to serve as a bridge between East and West. They bind us together in a unique partnership of understanding and obligation.

The Philippines and Japan can turn the lessons of their bitter war experiences into beacons lights guiding the way to a new relationship of mutual friendship and amity. As neighbors, we can be good neighbors; as fellow-Asians, we can be friends; as believers in democracy and freedom, we can cooperate with others to develop a new and greater Asia liberated from all colonialism, living in freedom and marching forwards to new goals, of progress, prosperity, and contentment.

PRESIDENT GARCIA'S SPEECH BEFORE AN INFORMAL JAPANESE DINNER GIVEN BY THE PHILIPPINE CONSUL, GAIMUSHO, REPRESENTATIVE AND PRESIDENT OF THE PHILIPPINE SOCIETY AT OSAKA, AT 7:30 P.M. (TOKYO TIME), THURSDAY, DECEMBER 4, 1958

THIS IS a felicitous occasion in the history of the relations between the Japanese and the Filipino peoples.

As Chief of the Philippine State, it is my pleasure and privilege to reciprocate the state visit of your Prime Minister to my country last year. The many tokens of esteem and friendship from the Japanese nation which I have received both during this visit and before it are, I trust, a portent of things to come in the way of complete restoration of friendly relations and goodwill between the Philippines and Japan.

The theme of my address to you today is the expansion of trade between the Philippines and Japan. Two island countries like ours, whose human and natural resources have been endowed with different qualities by the Creator, have in the postwar years made of these differences a firm foundation for the conduct of an expanding and mutually profitable exchange of commodities. The sea lanes between our two countries are busy with ships carrying

north the three great mainstays of our export trade to Japan—base metals, forest products, and abaca—as well as a number of other products, and carrying south the machinery, equipment, tools, and consumer goods which pour out in such confusion from the factories of this industrial country.

Japan today holds the enviable position of being the only industrialized free country in the entire ECAFE region stretching from Afghanistan to Hokkaido. Among its neighbors are many underdeveloped nations which have to industrialize in order to escape the pangs of poverty resulting from the upsurge of population and the heritage of colonialism. Japan has to play a role in this part of the world in order to enable its neighbors to increase their respective production capacities. Steps towards these ends in terms of credit facilities and technical cooperation would be dynamic contributions toward attaining a more prosperous Far Eastern region. Indeed, Japan would be a much greater country if it were associated with an industrialized region instead of the present cluster of underdeveloped economies. Sound and hard-headed economic policy operates in the light of the realization that in raising through expanded trade the income levels of a country's trading partners will be mutually beneficial to both trade partners. Conceivably, external credits might take the form of government-to-government arrangements, credit lines through public and private financial institutions, or perhaps joint-ventures on the private firm level.

I look on such ventures not only as commercial propositions and as instruments for accelerating economic development, but also as legitimate means of promoting greater intercourse among our two peoples, greater mutual understanding, and therefore greater respect for one another. We know as we are privy to their deepest sentiments, that these would be the most effective means of wiping out the last war's legacy of suspicion and hostility. I would be less than candid if I did not admit that the wounds of battle, despite the lapse of more than a dozen years, have not been completely healed. The leaders of government and public opinion of both countries should face squarely this fact and direct their common efforts to obliterate the remaining vestiges of mental reservations and bitter memories of the last war. I have no doubt that a demonstration in deeds of your friendly, honorable, and neighborly intentions to the Filipinos would go very far in reestablishing old confidence, esteem, and respect. I am positive that all your acts in this direction will find a ready response from my people.

It is essential for the free world, and especially for free Asia, that a complete reconciliation between all peoples in

this region be brought about as speedily as possible, for we can no longer afford to act in isolation from one another if we are to live an abundant life in this age. Extend to us the hand of friendship with understanding and without reservation show us sympathetic concern in the development of our industries and in the utilization of our natural resources, and you shall find that the surviving relics of wartime rancors will melt away and our people will meet you face to face as friends in an atmosphere of political security and economic prosperity.

DECISIONS OF THE SUPREME COURT

[No. L-10137. March 25, 1958]

ELOÍSA C. AGUILAR, in her own behalf and as Judicial Administratrix of the Intestate of the late JOSÉ S. AGUILAR, plaintiff and appellant, *vs.* SERAFÍN R. GAMBOA, defendant and appellee.

1. PLEADING AND PRACTICE; DISMISSAL DUE TO PLAINTIFF'S FAILURE TO PROSECUTE; EFFECT OF.—A dismissal by reason of the plaintiff's failure to appear at the trial, is an adjudication upon the merits unless expressly made without prejudice.
2. ID.; ID.; "RES JUDICATA"; INCLUSION OF ADDITIONAL PARTIES.—Where both the party offering a judgment as an estoppel and the party against whom it is so offered were parties to the action in which the judgment was rendered, it is no objection that the first action included more additional parties who are not joined in the present action. The defense of *res judicata* would be decisive just the same.

APPEAL from an order of the Court of First Instance of Negros Occidental. Teodoro, *J.*

The facts are stated in the opinion of the Court.

Ildefonso S. Villanueva for plaintiff and appellant.
David G. Fuentebella for defendant and appellee.

BENGZON, *J.*:

The Judge of the Occidental Negros Court of First Instance dismissed the complaint in this case on the ground of *res judicata*.

Said complaint (August 29, 1955) alleged in substance that: plaintiff is the judicial administratrix of the intestate of the deceased José S. Aguilar; in June 1952, defendant Serafin Gamboa started foreclosure proceedings in Civil Case No. 2335 of the same Court, against Luz C. Vda. de Aguilar et al, wherein judgment of foreclosure was rendered in December 1953 which has become final and executory; said decision ordered the sale at public auction of the mortgaged properties (Lots Nos. 267, 184, 1696 and 1736 Pontevedra Cadastre) in spite of the fact that the contract of mortgage only encumbered the rights, interests, title and participation therein of Luz C. Vda. de Aguilar, who was not owner thereof; as the mortgaged properties belong to the estate of the late Jose S. Aguilar, which estate was not a party either to the contract of mortgage or to the foreclosure proceedings in Civil Case No. 2335, the decision in such Civil Case is entirely null and void; but the provincial sheriff is about to sell the lots at public auction, pursuant to writs of execution issued in said foreclosure proceedings.

Complainant prayed for annulment of said decision and for injunction to forbid the impending execution sale.

Setting up several grounds, the defendant on September 8, 1955, moved for dismissal of the action. A few days later, he submitted an additional motion based on *res judicata*, asserting that in a previous Civil Case No. 3064 of the same Court, the administrator of the estate of José Aguilar had filed a complaint in June 1954, questioning the validity of the mortgage as effecting properties of the estate and challenging the efficacy of the decision in Civil Case No. 2335 and the execution issued thereunder; and that said Civil Case No. 3064 had been ordered definitely dismissed in September 1954.

After considering the arguments on both sides, the judge dismissed the action as stated, holding that it was barred by the previous order of dismissal in Civil Case No. 3064.

In his appeal to this Court, the plaintiff-appellant maintains it was error to dismiss on that ground.

According to our rulings on the matter, in order that a prior judgment may be conclusive upon a subsequent litigation, these requisites should be met:

- a. It must be a final judgment or order;
- b. The court rendering it must have jurisdiction of the subject matter and of the parties;
- c. It must be a judgment or order on the merits; and
- d. There must be between the two cases identity of parties, identity of subject matter, and identity of cause of action.¹

The plaintiff, in his printed brief, expressly admits the existence of the first three requisites. In connection with the third a few words may be apposite. The order of dismissal in Civil Case No. 3064 was issued upon the plaintiff's failure to appear at the hearing; and it expressly "orders the definite dismissal of this case, with costs against plaintiff." In the year 1934, this Court held that a dismissal upon plaintiff's failure to appear at the trial does not constitute *res judicata*;² but that ruling was handed down before the adoption of the present Rules of Court, under which dismissal by reason of such failure is *adjudication upon the merits* unless expressly made without prejudice.³

¹ Moran, Rules of Court (1957 Ed.) p. 609, 610 citing *San Diego vs. Cardona* 70 Phil. 281, 283.

² *Lazaro vs. Mariano* 59 Phil. 627.

³ See Sec. 3 Rule 30; Moran Op. Cit. p. 432; *Cuye vs. American President Lines* 77 Phil. 634; *Gorospe vs. Millan* 48 Off. Gaz. 572.

Concerning the fourth requisite, the plaintiff denies identity of parties "because while in Civil Case No. 3064, José Aguilar was the plaintiff and Serafín R. Gamboa (Luz C. Vda de Aguilar) José Azcona and Cirilo Abrasia were the defendants, in the present case Eloísa C. Aguilar is the plaintiff and only Serafín R. Gamboa is the defendant." This point has no merit. In both cases, the plaintiff is the administrator or administratrix of the Estate of the deceased José Aguilar. And it makes no difference that Serafín Gamboa was defendant with others in the first case; because if he had been sued alone in the first case and he is now sued with others, the defense of *res judicata* would be decisive just the same.⁴

"Where both the party offering a judgment as an estoppel and the party against whom it is so offered were parties to the action in which the judgment was rendered, it is no objection that the action included some additional parties who are not joined in the present action, * * *." (50 Corpus Juris Secundum p. 301, citing many decisions.)

Contrary to appellant's contention, we find that both cases refer to identical subject matter to wit: the parcels mortgaged by Luz Aguilar (Lots Nos. 267, 184, 1696 and 1736 Pontevedra Cadastre pages 7 and 64 Record on Appeal) the alleged nullity of the mortgage and of the decision and execution on foreclosure in Civil Case No. 2335.

In Civil Case No. 3064, it was asserted that Luz Vda. de Aguilar (widow of the deceased) had no right to mortgage the properties, not only because she was not the owner thereof but also because the properties were then under administration. It was prayed that the execution levied pursuant to the decision in Civil Case No. 2335 and the proposed sale of the above lots be stopped and that the mortgage be declared void.

These same allegations of want of authority are repeated in the complaint presently before this Court. The purpose is to prevent the sale at public auction of the lots ordered foreclosed in Civil Case No. 2335, and although in Civil Case No. 3064, the prayer for annulment of the decision in No. 2335, was not expressed—as it is expressed now—it could have been decreed if plaintiff's allegations therein had been substantiated. Such allegations in Civil Case No. 3064 although ostensibly aimed at the invalidity of the execution of the decision in No. 2335, were equally directed against the enforceability of such decision under execution.

Of course, we observe that in this litigation there are allegations of lack of jurisdiction of the court that decided

⁴ Aquino vs. Sanvictores L-3397 July 27, 1951; Valdez vs. Pineda L-3467, July 30, 1951.

Civil Case No. 2335. However, these are presently immaterial because such issue could have been threshed out in Civil Case No. 3064 and is therefore barred. (Namarco vs. Hon. Judge Macadaeg 52 Off. Gaz. p. 182). And if appellant should argue that jurisdiction is essential when dealing with *res judicata*, the answer is that so far as we are concerned now, the matter of jurisdiction of the court that decided Civil Case No. 3064, which jurisdiction appellant conceded at page 6 of his brief) is the decisive factor.

The situation, in short, is this: the wife mortgaged the above lots; in Civil Case No. 2335 foreclosure of the mortgage was decreed and sale of the lots was ordered; in Civil Case No. 3064 the administrator of the husband (deceased) attempted to stop the execution alleging that the lots belonged to the estate; the attempt failed, because the action was definitely dismissed. In the present action another administrator of the husband seeks to avoid the execution on the pretext among others that the lots belonged to his estate. What plaintiff wants is clearly to prevent the execution and nullify the foreclosure. Rather a belated effort or a dilatory move. The dismissal of Civil Case No. 3064 is conclusive. *Res adjudicata*.

WHEREFORE, the order dismissing the complaint is affirmed, with costs against appellant.

Parás, C. J., Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepción, Reyes, J. B. L., Endencia, and Félix, JJ., concur.

Order affirmed.

[Nos. L-8922-L-8924. 28 February 1957.]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee vs.
FLORENTINO ENGUERO, JOSÉ TARIMAN, NAZARIO NAR-
VARTE and DIONISIO BUENO, defendants and appellants.

CRIMINAL LAW; ROBBERY IN BAND; WHEN THREE CRIMES ARE COMMITTED the second and after committing it they proceeded in band the appellants went to another house where they committed the second and after committing it they proceeded to another house where they committed the third, all of which constitute three separate crimes, punishable in accordance with the pertinent provisions of the Revised Penal Code. Obviously, the rule in *People vs. De Leon*, 49 Phil., 437 does not apply.

APPEAL from a judgment of the Court of First Instance of Camarines Sur. Surtida, J.

The facts are stated in the opinion of the Court.

Counsel de oficio Manuel E. Biloy for defendants and appellants.

Solicitor General Ambrosio Padilla and *Solicitor Esmeraldo Umali* for the plaintiff and appellee.

PADILLA, J.:

Florentino Enguero, José Tariman, Nazario Narvarte and Dionisio Bueno were charged with the crime of robbery in band in three separate informations and after a joint trial the Court of First Instance of Camarines Sur found them guilty as charged and sentenced them as follows—

(a) In *Criminal Case No. 2714*, Florentino Enguero is sentenced to suffer an indeterminate penalty which shall not be less than 8 years and 21 days of *prisión mayor* nor more than 14 years, 10 months and 21 days of *reclusión temporal*; José Tariman, Nazario Narvarte and Dionisio Bueno each to suffer an indeterminate penalty which shall not be less than 4 years and 2 months of *prisión correcional* nor more than 8 years and 21 days of *prisión mayor*; and all of them to indemnify Florentina Ogarte de Binaday in the amount of ₱36.75 and to pay the costs;

(b) In *Criminal Case No. 2715*, Florentino Enguero is sentenced to suffer an indeterminate penalty which shall not be less than 8 years and 21 days of *prisión mayor* nor more than 14 years, 10 months and 21 days of *reclusión temporal*; José Tariman, Nazario Narvarte and Dionisio Bueno each to suffer an indeterminate penalty which shall not be less than 4 years and 2 months of *prisión correcional* nor more than 8 years and 21 days of *prisión mayor*; and all of them to indemnify Cresenciano Magistrado and Juan Margate in the amount of ₱38.88 and ₱17.80 respectively, and to pay the costs; and

(c) In *Criminal Case No. 2716*, Florentino Enguero is sentenced to suffer an indeterminate penalty which shall not be less than 8 years and 21 days of *prisión mayor* nor more than 14 years, 10 months and 21 days of *reclusión temporal*; José Tariman, Nazario Narvarte and Dionisio Bueno each to suffer an indeterminate penalty which shall not be less than 4 years and 2 months of *prisión correcional* nor more than 8 years and 21 days of *prisión mayor*; and all of them to indemnify Anatolia Bragais in the amount of ₱3.00 and to pay the cost. In the three cases, they shall not suffer subsidiary

imprisonment in case of insolvency on account of the nature of the principal penalty.

The one bottle of Siutong wine, Exh. B, shall be returned to Cresenciano Magistrado; the pair of red leather shoes, Exh. F; the jacket, Exh. G; the blue pant, Exh. H; and the hammer, Exh. I to Anatolia Bragais; and the birthstone ring, Exh. E, to Juan Margate. The balisong, Exh. M, and the bolo, Exh. C, and its scabbard, Exh. C-1, are confiscated. The pistol, Cal. 45, W/SN-394701, by decision of this Court in Criminal Case No. 2729, is already confiscated. The gray skin suit marked Exhs. K and K-1; the pair of tennis shoes Exh. D; the raincoat, Exh. L; and the flashlight, Exh. N, shall be returned to Florentino Enguero. The towel; Exh. O; the skin pant, Exh. F, and the pair of shoes black and white, Exh. Q, shall be returned to Nazario Narvarte.

They appealed. José Tariman withdrew his appeal. As no question of fact is raised, the only error assigned to have been committed by the trial court being the conviction and sentence of the defendants for three robberies in band instead of only one, the Court of Appeals certified the appeal to this court.

The trial court found the following:

At about 3:00 o'clock in the afternoon of July 9, 1952 the four defendants met at Yabo River, Lupi, Camarines Sur, after Florentino Enguero had previously provided himself with a pistol. From the river they went to the house of Enguero where they took their supper. After eating Enguero issued to Nazario Narvarte a bolo, to José Tariman a balisong and to Dionisio Bueno, a piece of hardwood, while he himself had the pistol. Thus armed they all started at about 7:00 in the evening for Jaloban, Pigbasagan, Lupi, but before reaching the barrio itself, they passed at the house of Teodoro Banta where Enguero ordered him and his brother-in-law, Francisco Bugagao, at the point of his pistol to guide them to the barrio. At the instance of Enguero, their hands were tied behind their backs. With the two as guides, the group proceeded towards the barrio, and on the way they met Pedro Bragais by the stairs of his house. Pointing his pistol at him, Enguero had his hands tied behind his back and ordered him to go with them. They continued on their way and later they met again one Ernesto Belgado whose hands they also tied behind his back. They took him along with them too. They arrived in the barrio at about 8:00 in the evening and went directly to the store of Cresenciano Magistrado which adjoins his house. They made the four tied men sit on the ground in front of the store guarded by Navarte who had the bolo in his hand, while Enguero entered the store. Pointing his pistol at Magistrado, Enguero demanded money from him. Fearing for his life, Magistrado ordered his wife who was in the house to give their money to them. Enguero, Bueno and Tariman then went up the house and took P4.80 from Magistrado's wife. And upon finding Juan Margate, the barrio school teacher who was lodging with the Magistrados, in one of the rooms of the house, Bueno who had the open balisong in his hand brought him down to the ground and there tied his hands behind his back. Upon seeing a birthstone ring in Margate's finger, Bueno forcibly took it away from him. After a while Enguero and Tariman went down to the store and told Magistrado to give them wine which they drank. After drinking Enguero took the goods displayed in the store and passed them on to Bueno and Tariman who piled them on the ground in front of the store. The goods consisted of one dozen

bottles of Coca-Cola worth P1.20; one dozen cans of sardines worth P7.20, one dozen bottles of wine, Hoctung, worth P3.00; one dozen Sardine at P4.80; one dozen bottles Pomade woth P4.80; two pairs of gold earings worth P10.00; one dozen cartons Purico, valued at P3.00; and one package of Matches worth P0.33. The total value of these articles together with the sum of P4.80 taken from the wife of Magistrado amounts to P39.13. The defendants also carried away the following articles belonging to Juan Margate; one birthstone ring worth P70.00; one pair of tennis shoes worth P5.50; one pair of sock worth P2.00; one cake of soap worth P.30; a medal and a crucifix worth P10.00, all with a total value of P87.00.

After having committed the acts narrated above and when it was about 10:00 in the evening, the four defendants, together with Magistrado, Margate whose hands were still tied behind his back and the four other tied individuals, all of whom they forced to go with them, went to the nearby house of Victorino Togno about 14 meters from the house of Magistrado (See Exh. R). Upon arriving Florentino Enguero, José Tariman and Clementino Carulla (this last one was originally accused with the four defendants, but the case against him was later dismissed upon motion of the Provincial Fiscal) went up the house, while their above-named companions remained on the ground guarded by Bueno and Narvarte. Anatolia Bragais, wife of Victorino Togno, and her son were in the house. Pointing at the neck of Anatolia a sharp instrument, Enguero demandcd money from her. Carulla opened a trunk and took P3.00 from it. Enguero asked Anatolia where she kept the rest of her money, and to make her reveal it, he threatened to cut her throat with the sharp instrument. She told him that she had no other money. However, Enguero took and carried away from her house a pair of shoes worth P18.00, a jacket worth P12.00, a blue pant worth P12.00 and a hammer. These articles including the P3.00 in cash have a total value of P45.00. They then left the house.

After committing the acts mentioned in the next prceding paragraph, the four accused and Carulla, together with Magistrado, Margate and the four tied men whom they again forced to go with them, proceeded to the house of Florentina Ogarte, wife of Ireneo Binaday, located about 54 meters from the house of Cresenciano Magistrado (See sketch, Exh. R). The time was about 11:00 o'clock in the evening. Upon arriving Enguero and Carulla went up the house while Tariman, Narvarte and Bueno again stood as guards on the ground. Enguero pointed his pistol at Florentina and ordered her to produce her money and jewels. She replied that she had none; but Enguero nonetheless searched her waist-line. Not having found anything, he began to hold her private parts, but she begged for pity and said they could get instead the goods in her store. Enguero left her and took from the store 2 dozen cans of Sardine worth P8.20; 15 tins of Salmon worth P11.15; 14 tins of Tinapa worth P4.20; 2 dozen bottles of Hoctung wine worth P8.40 besides money amounting to P4.80. He threw the goods to his co-defendants on the ground through the door. The value of the goods and money taken makes a total of P36.75. Enguero and Carulla then asked Florentina to provide them with empty sacks which she did. Bueno, Tariman and Narvarte gathered the goods and put them inside the sacks. They then left the house after cautioning Florentina not to report them to the authorities.

From this last house the four defendants, together with those whom they forced to follow them, returned to the store of Magistrado. Upon arriving they gathered the other stolen goods and put them inside the sacks. Then they looked for some one who could

carry the goods for them. They found Glicerio Buensalida and Absalon Medrano, after which they untied the hands of Margate, Bragaia, Delgado, Banta and Bugagao. After warning them not to report to the authorities, the four defendants left and went away with the stolen goods carried by Buensalida and Medrano.

After a few days the defendants were apprehended pursuant to a warrant of arrest issued by the Justice of the Peace Court of Lupi on July 16, 1952. After their arrest Enguero and Tariman were investigated by Capt. Dominador M. Gutierrez of the 1st Camarines Sur PC Company, and Narvarte and Bueno by First Lieut. Jaope Nobleza of the same company. The investigation was made in question and answer form and reduced to writing which later was subscribed and sworn to by the defendants before Mamerto M. Bonot, Justice of the Peace of Lupi. Exhibit S is the sworn statement of Enguero, Exhibit T of Bueno, Exhibit U of Narvarte and Exhibit V of Tariman. In these exhibits the four accused have admitted and confessed among other statements, their respective participation in the three different robberies, pointing to the investigators the whereabouts of some of the stolen articles.

Following the lead in the written confessions, Sgt. Fernando Narvaez took the defendants to their respective houses on July 22, 1952 and recovered from them some of the goods and arms used during the robberies. From Florentino Enguero the following were recovered:

- 1 suit, skin, gray, Exhibits K and K-1
- 1 bottle of Siu Tung wine, Exhibit B
- 1 pair of Tennis shoe (Elpo), Exhibit D
- 1 raincoat, rubber, used during the robbery, Exhibit L
- 1 knife (balisong) used during the robbery, Exhibit M
- 1 flashlight used during the robbery, Exhibit N
- 1 pistol, Cal. 45 W/SN-394701 with one magazine and one ammunition used during the robbery.

From Nazario Narvarte, the following were recovered:

- 1 towel (white), Exhibit O
- 1 pant skin (ceniza, Exhibit T
- 1 pair 2 shoes, black and white, Exhibit Q.
- 1 hammer (Steel) Exhibit I.

From Dionisio Bueno, the following were recovered:

- 1 ring, birthstone, Exhibit E
- 1 pant skin (blue), Exhibit H
- 1 jacket, skin, light green, Exhibit G.

One pair of leather shoe (Red), Exhibit F, was recovered from José Tariman.

The above articles are listed in an inventory, Exhibit J, prepared by Sgt. Narvaez, in which all the four defendants certified that the goods were taken from their custody. As evidence of this fact, each and everyone of them signed Exhibit J below the articles recovered respectively from them (Exhibits J-1, J-2, J-3 and J-4).

Counsel *de oficio* argues that the appellants are guilty of one crime only citing in support of his contention the case of *People vs. de Leon*, 49 Phil. 437. The contention is without merit. In the case cited by counsel the defendant entered the yard of a house where he found two fighting cocks belonging to different persons and took them. In this case, after committing the first crime of robbery in band the appellants went to another house where they

committed the second and after committing it they proceeded to another house where they committed the third. Obviously, the rule in the case cited cannot be invoked and applied to the present.

The crime committed is robbery in band punished in article 294, paragraph 5, of the Revised Penal Code, as amended by Republic Act No. 18, in connection with article 295 of the same Code, as amended by Republic Act No. 373, with *prisión correccional* in its maximum period to *prisión mayor* in its medium period. As the robbery was committed in band, the penalty to be imposed is the maximum period of the proper penalty, which is *prisión mayor* in its medium period, or from 8 years and 1 day to 10 years. The second paragraph of article 295 of the Revised Penal Code which imposes the penalty next higher in degree upon the leader of the band has been left out by Republic Act No. 373 amending further article 295 of the Revised Penal Code.

Pursuant to the Indeterminate Sentence Law, the penalty to be imposed upon each of the appellants is the next lower to that prescribed by the Revised Penal Code for the offense, or 4 months and 1 day of *arresto mayor*, as minimum, and 8 years and 1 day of *prisión mayor*, as maximum, in each of the three crimes committed, and the accessories of the law.

Modified as to the penalty to be imposed upon each of the three appellants, the rest of the judgment appealed from is affirmed, with proportionate costs in each case against the appellants.

Parás, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepción, Reyes, J. B. L., Endencia, and Félix, JJ., concur.

Judgment affirmed with modification.

[No. L-7295. June 28, 1957]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.*
MARINA PADAN Y ALOVA, COSME ESPINOSA, ERNESTO
REYES and JOSE FAJARDO, defendants. MARINA PADAN
Y ALOVA and JOSE FAJARDO, defendants and appellants.

1. CRIMINAL LAW; OFFENSE AGAINST MORALS AND DECENCY; CLAIM OF ART.—The Supreme Court has had occasion to consider offenses like the exhibition of still or moving pictures of women in the nude, which it condemned for obscenity and offensive to morals. In those cases, one might yet claim that there was involved the element of art; that connoisseurs of the same, and painters and sculptors might find inspiration in the showing of pictures in the nude, or the human body exhibited in sheer nakedness as models in tableaux vivants. But an actual exhibition of the sexual act, preceded by acts of lasciviousness, can have no redeeming features. In it, there is no room for art. One can see nothing in it but clear and unmitigated obscenity, indecency and an offense to public morals, inspiring and causing as it does, nothing but lust and lewdness, and exerting a corrupting influence especially on the youth of the land. Considering the seriousness of the crime, the relatively severe penalty imposed by the trial court is proper.

APPEAL from a judgment of the Court of First Instance of Manila. Gatmaitan, *J.*

The facts are stated in the opinion of the Court.

Augusto Revilla for defendant and appellant José Fajardo.

W. M. Bayhón for defendant and appellant Marina Padán y A洛va.

Solicitor General Ambrosio Padilla and *Solicitor José P. Alejandro* for the plaintiff and appellee.

MONTEMAYOR, *J.:*

In the Court of First Instance of Manila, Marina Padan, Jose Fajardo y Garcia, Cosme Espinosa, and Ernesto Reyes were charged with a violation of Article 201 of the Revised Penal Code, said to have been committed as follows:

That on or about the 13th day of September, 1953, in the city of Manila, Philippines, the said accused conspiring and confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously exhibit or cause to be exhibited inside a building at the corner of Camba Ext. and Morga Ext., Tondo, this City, immoral scenes and acts, to wit: the said accused Jose Fajardo y Garcia, being then the manager and Ernesto Reyes y Yabut, as ticket collector and/or exhibitor, willfully, unlawfully and feloniously hired their co-accused Marina Padan y A洛va and Cosme Espinosa y Abordo to act as performers or exhibitionists to perform and in fact performed sexual intercourse in the presence of many spectators, thereby exhibiting or performing highly immoral and indecent acts or shows thereat."

Upon arraignment, all pleaded not guilty. Later, however, Marina Padan, with the assistance of her counsel de parte and counsel de oficio, asked for permission to

withdraw her former plea of not guilty, which was granted, and upon rearraignment, she pleaded guilty to the charge. In a decision dated October 12, 1953, Marina Padan was found guilty as charged and sentenced to six months and one day of *prisión correccional* and a fine of ₱200, with subsidiary imprisonment in case of insolvency, not to exceed one-third of the principal penalty, with the accessory penalties prescribed by the law, and to pay the proportionate costs. After trial of the three remaining accused, they were all found guilty; Cosme Espinosa and Ernesto Reyes were sentenced each to not less than six months and one day of *prisión correccional* and not more than one year, one month and eleven days of *prisión correccional*, to pay a fine of ₱500; with subsidiary imprisonment in case of insolvency, not to exceed one-third of the principal penalty, and to pay the proportionate costs. Jose Fajardo was sentenced to not less than one year, one month and ten days of *prisión correccional* and not more than one year, eight months and twenty days, also of *prisión correccional*, to pay a fine of ₱1,000, with subsidiary imprisonment in case of insolvency, not to exceed one-third of the principal penalty, and to pay the proportionate costs. The army steel bed, the army woolen blanket, the pillow, the ladies' panties, and the men's underwear, described in Exhibit C, were declared confiscated.

The four accused appealed the decision, the appeal having been sent to us. Appellants Espinosa and Reyes failed to file their briefs within the period prescribed by law and their appeal was dismissed by resolution of this Court of November 25, 1955, and the decision as to them became final and executory on January 7, 1956, as appears from the entry of judgment.

Because of her plea of guilty in the lower court, appellant Marina in her appeal does not question her conviction; she merely urges the reduction of the penalty by eliminating the prison sentence. We do not feel warranted in interfering with the exercise of discretion in this matter, made by the lower court, presided by Judge Magno S. Gatmaitan. According to his decision of October 12, 1953, in imposing the sentence, he already considered Marina's plea for leniency, and so despite the recommendation of the fiscal that she be fined ₱600 in addition to the prison sentence of six months and one day, his honor reduced the fine to only ₱200.

We believe that the penalty imposed fits the crime, considering its seriousness. As far as we know, this is the first time that the courts in this jurisdiction, at least this Tribunal, have been called upon to take cognizance of an offense against morals and decency of this kind. We have had occasion to consider offenses like the exhibition of still or moving pictures of women in the nude, which we have

condemned for obscenity and as offensive to morals. In those cases, one might yet claim that there was involved the element of art; that connoisseurs of the same, and painters and sculptors might find inspiration in the showing of pictures in the nude, or the human body exhibited in sheer nakedness, as models or in tableaux vivants. But an actual exhibition of the sexual act, preceded by acts of lasciviousness, can have no redeeming feature. In it, there is no room for art. One can see nothing in it but clear and unmitigated obscenity, indecency, and an offense to public morals, inspiring and causing as it does, nothing but lust and lewdness, and exerting a corrupting influence specially on the youth of the land. We repeat that because of all this, the penalty imposed by the trial court on Marina, despite her plea of guilty, is neither excessive nor unreasonable.

Going to the appeal of Jose Fajardo y Garcia, while he does not deny the fact of the commission of the offense charged, he insists that he was not the manager or the person in charge of the show or proceedings on the night of September 13, 1953; that his participation, if he participated at all, was to play the role of an innocent bystander, but that because of his popularity in the neighborhood, being popularly known as a "siga-siga" character, he was requested by the spectators to select the man and the woman to engage or indulge in the actual act of coitus before the spectators; that after making the selection, he did not even care to witness the act but left the scene and returned to it only when he heard a commotion produced by the raid conducted by the police.

The evidence on his active participation and that he was the manager and one in charge of the show is however ample, even conclusive. We have carefully examined such evidence, and we are satisfied that they fully support the findings of the trial court. Such facts may be briefly stated as follows: At the corner of Morga Extension and Camba Extension, Tondo, Manila, was a one story building which, judging from the picture Exhibit A, is nothing but a shed, with a floor space of eight by fifteen meters, which was mainly used for playing ping-pong. A ping-pong table must have been placed in the center and on two sides were built benches in tiers, so that the spectators seated on them could look down and see the game. On September 13, 1953, however, the building was used for a different purpose. It was to be the scene of what was said to be an exhibition of human "fighting fish", the actual act of coitus or copulation. It must have been advertised by word of mouth; tickets therefor were sold at ₱3.00 each, and the show was supposed to begin at 8:00 o'clock in the evening. About that time of the night, there was already a crowd around the building, but the

people were not admitted into it until about an hour later, and the show did not begin until about 9:15. The Manila Police Department must have gotten wind of the affair; it bought tickets and provided several of its members who later attended the show, but in plain clothes, and after the show conducted a raid and made arrests. At the trial, said policemen testified as to what actually took place inside the building. About two civilians who also attended the affair gave testimony as to what they saw.

The customers not provided with tickets actually paid ₱8.00 at the entrance to defendant Ernesto Reyes. He also collected the tickets. In all, there were about ninety paying customers, while about sixteen were allowed to enter free, presumably friends of the management. Jose Fajardo y Garcia was clearly the manager of the show. He was at the door to see to it that the customers either were provided with tickets or paid ₱3.00 entrance fee. He even asked them from whom they had bought the tickets. He ordered that an army steel bed be placed at the center of the floor, covered with an army blanket, and provided with a pillow. Once the spectators, about 106 in number, were crowded inside that small building, the show started. Fajardo evidently to arouse more interest among the customers, asked them to select among two girls present who was to be one of the principal actors. By pointing to or holding his hand over the head of each of the two women one after the other, and judging by the shouts of approval emitted by the spectators, he decided that defendant Marina Padan was the subject of popular approval, and he selected her. After her selection, the other woman named Concha, left. Without much ado, Fajardo selected Cosme Espinosa to be Marina's partner. Thereafter, Cosme and Marina proceeded to disrobe while standing around the bed. When completely naked, they turned around to exhibit their bodies to the spectators. Then they indulged in lascivious acts, consisting of petting, kissing, and touching the private parts of each other. When sufficiently aroused, they lay in the bed and proceeded to consummate the act of coitus in three different positions which we deem unnecessary to describe. The four or five witnesses who testified for the Government when asked about their reaction to what they saw, frankly admitted that they were excited beyond description. Then the police who were among the spectators and who were previously provided with a search warrant made the raid, arrested the four defendants herein, and took pictures of Marina and Cosme still naked and of the army bed, which pictures were presented as exhibits during the trial.

From all this, there can be no doubt that Jose Fajardo y Garcia contrary to what he claims, was the person in charge of the show. Besides, as found by the trial court

and as shown by some of the tickets collected from the spectators, submitted as exhibits, said tickets while bearing on one side printed matter regarding an excursion to Balara to be held on August 30, 1953, from 7:00 a.m. to 5:00 p.m., sponsored by a certain club, on the other side appears the following typewritten form, reading:

"P3.00 Admit one
PLEASURE SHOW
Place: P. Morga Ext. and Camba Ext.
Time: 8:00 o'clock sharp",

and superimposed on the same is the rubber stamped name "Pepe Fajardo", which defendant Fajardo admits to be his name. Considering all the above circumstances, we agree with the trial court that Jose Fajardo is the most guilty of the four, for he was the one who conducted the show and presumably derived the most profit or gain from the same.

As regards the penalty imposed by the trial court on appellant Fajardo, we agree with the Solicitor General that the same is correct, except the minimum thereof which is beyond the legal range, and which should be reduced from one year, one month, and ten days of *prisión correccional* to only six months of *arresto mayor*.

With the modification above-mentioned, the decisions appealed from by Marina Padan and Jose Fajardo are hereby affirmed, with costs against both.

Parás, C. J., Padilla, Reyes, A., Bautista Angelo, Labrador, Concepción, Reyes, J. B. L., Endencia, and Félix, JJ., concur.

Judgment affirmed with modification.

[No. L-8926. June 29, 1957] ✓

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee *vs.*
FERNANDO TOGONON ET AL., defendants and appellants

CRIMINAL LAW; REBELLION WITH MURDER WHEN THE LATTER WAS
COMMITTED IN FURTHERANCE OF FORMER.—Where it appears that
murder was perpetrated in furtherance of rebellion, the Court
has no authority to convict the accused of murder as a separate
crime.

APPEAL from a judgment of the Court of First Instance
of Iloilo. Céa, *J.*

The facts are stated in the opinion of the Court.

Alfredo R. Illenberger for defendants and appellants.
First Assistant Solicitor General Ruperto Kapunan, Jr.
and Solicitor Augusto C. Luciano for the plaintiff and
appellee.

REYES, A., *J.:*

In an information filed in 1952 by the provincial fiscal
of Iloilo in the Court of First Instance of that province,
94 persons were accused of "the crime of rebellion with
multiple murder, arson, kidnapping, rape, robbery and
physical injuries." Only some of the accused were tried.
the great majority being still at large. Of those tried
some were acquitted and some convicted. Among those
convicted were Fernandito Togonon *alias* Andres Aldeguer
and Coronacion Chiva *alias* Walingwaling.

Togonon was found by the trial judge to have joined
the Huks—a group of persons who have risen publicly
and taken arms against the Government for the purpose
of removing from the allegiance to said Government the
territory of the Philippine Islands and to have participated
in their activities in furtherance of that end, especially
in the killing of the Dolinog brothers—Juan and Abundio
who, for having denounced the Huks to the Philippine
Constabulary, were beheaded by Togonon while they had
their hands bound. Being, however, of the opinion that
the crime of rebellion cannot be complexed with murder,
the trial judge pronounced Togonon guilty of two separate
offenses, namely, simple rebellion and double murder, im-
posing upon him, for the crime of rebellion alone, the
penalty of 6 years and 1 day of *prisión mayor*, and, for
the crime of double murder, an indeterminate penalty of
12 years and 1 day of *prisión mayor* to 17 years, 4 months
and 1 day of *reclusión temporal*, plus indemnity to the
heirs of each of the deceased.

Coronacion Chiva, on her part, was found guilty only
of simple rebellion—in consonance, obviously, with the
manifestation which, as stated in the decision below, the
provincial fiscal made before the commencement of the
trial to the effect that he was accusing the defendants,

except Togonon, of having committed that crime only—and for that crime she was sentenced to a penalty of 6 years and 1 day of *prisión mayor*.

Both Togonon and Chiva appealed to the Court of Appeals; but that court has certified he case o us, stating that Togonon's appeal raises a question of jurisdiction and that this appellant would have to be sentenced to life imprisonment or death should it be held that the crime of rebellion could be complexed with murder, while the case against the other appellant Chiva "arose out of the same occurrence or occasion as that giving rise to the more serious offense."

As to the appeal of Togonon, the brief filed on his behalf states that he is not appealing from his conviction for rebellion but only from that part of the sentence which further declares him guilty of murder. That manifestation dispenses with the necessity of our going into the evidence on rebellion and gives finality to appellant's conviction for that crime.

Anent the conviction for murder, the Government presented proof to the effect that some time in April, 1950, Togonon, with other Huks, held a meeting in the house of Eleno Dolinog in the barrio of Oyung, municipality of Libacao, Capiz province, and asked the people there for foodstuff, such as rice, chickens and pigs, at the same time warning them, on pain of having their heads cut off, not to report the presence of Huks in those parts to the constabulary; that disregarding the warning, Eleno Dolinog's two sons—Juan and Abundio—denounced the Huks to the local constabulary detachment, with the result that the Huks were ambushed by the constabulary soldiers; that in retaliation for what the Dolinog brothers had done, a group of Huks led by Togonon returned to the barrio and apprehended them and then with their hands bound, Togonon cut off their heads; that thereafter, Togonon and his companions took everything they could use from Dolinog's house.

Denying the imputation of murder, Togonon disclaimed any part in the killing of the Dolinog brothers. And based on his protestation of innocence and on the further claim that the killing was already absorbed in the crime of rebellion as something done in furtherance thereof, and that, in any event, the said killing was perpetrated outside the territorial jurisdiction of the trial court, the defense now contends that he conviction for murder should be annulled.

After going over the record we find that Togonon's conviction for murder cannot stand. While there appears to be clear proof that it was this accused who beheaded the Dolinog brothers, there is no denying the fact that the

act was perpetrated in furtherance of the rebellion and outside the territorial jurisdiction of the trial court. That court, therefore, had no authority to convict him of murder as a separate crime.

The Solicitor General, however, recommends that Togonon should be convicted of the complex crime or rebellion with robbery and double murder. To this we cannot agree. In line with our resolution in the case of *People vs. Hernandez, et al.*, G. R. L-6025, July 18, 1956, we have in the case of *People vs. Geronimo, et al.*, G. R. L-8936, October 23, 1956, made the following pronouncement:

“* * * As in treason, where both intent and overt act are necessary, the crime of rebellion is integrated by the coexistence of both the armed uprising for the purposes expressed in Art. 123 of the Revised Penal Code, and the overt acts of violence described in the first paragraph of Art. 135. That both purpose and overt acts are essential components of one crime, and that without either of them the crime of rebellion legally does not exist, is shown by the absence of any penalty attached to Art. 134. It follows, therefore, that any or all of the acts described in Art. 135, when committed as a means to or in furtherance of the subversive ends described in Art. 134, become absorbed in the crime of rebellion, and can not be regarded or penalized as distinct crimes in themselves. In law they are part and parcel of the rebellion itself, and can not be considered as giving rise to a separate crime that, under Art. 48 of the Code, would constitute a complex one with that of rebellion.”

Consistently with the above pronouncement, the recommendation to convict Togonon of rebellion with robbery and double murder must be rejected, as must also the view taken by the trial court that this appellant could, in addition to his conviction for rebellion, be furthermore declared guilty of murder despite the fact that the latter offense was proved to have been committed in furtherance of the former, with the further circumstance that the court below had no jurisdiction to try him of that separate offense because the same was committed outside its territorial jurisdiction. It should here be recorded, however, that the dissenting justices in the cases of Hernandez and Geronimo see no reason for altering their opinion on the question of whether or not the crime of rebellion may be complex with murder and other crimes and that they sign the present decision in so far as it is not inconsistent with the view expressed by them in those cases.

As to the case against Coronacion Chiva, it is established by the testimony of the witnesses Francisco Galilea, Alfonso Hernaez, Igmedio Digidigan and Crispulo Fabillon, four surrendered Huks who testified for the prosecution, that this appellant was with them in the mountains of Lambunao, Iloilo in 1950; that she became an officer of the Section Organization Committee (SOC) of the Huk organization in that region and that as such she collected supplies from the barrio people for the support of the

Huks; that she later became chairman of the Huk medical corps and in that capacity devoted herself to the cure of wounded Huk soldiers; that she later became treasurer; that she became the common-law wife of her co-appellant Fernandito Togonon and that she used to go around armed with a revolver given her for her personal protection; but that she did not participate in the raids conducted by the Huks.

The testimony of the said witnesses is objected to on the grounds that as declarations of co-conspirators it is not admissible against her as proof that she was in the conspiracy without that conspiracy being first established by other evidence. In support of this objection, counsel cites section 12 of Rule 123, which says that "the act or declaration of a conspirator relating to the conspiracy and during its existence, may be given in evidence against the co-conspirator after the conspiracy is shown by evidence other than such act or declaration." But the objection is without merit, because, as already held by this Court, the section refers to an extrajudicial declaration of a co-conspirator—not to his testimony by way of direct evidence (*Gardiner vs. Magsalin, et al.*, 73 Phil. 114).

Testifying in her own behalf, this appellant claimed that she was not herself a Huk; that what happened was that in 1950 she was kidnapped from her barrio and brought to the mountains by Alfonso Hernaez *alias* Atila and then delivered to Huk Commander Nery Oti; that thereafter she lived maritally without benefit of marriage with her co-appellant Togonon; that being already under his power she came to love him by force of circumstances; that she could not return to her barrio because she was under constant surveillance; that as the constabulary forces were conducting continued raids against the Huks and she was considered as one of these although in reality she was not, she decided to give herself up and so in April, 1952 she surrendered together with her companions Deogracias Casipe and Francisco Castigador, she giving up her revolver and they their carbines.

It may well be true that this appellant, as she herself has testified and as the trial court has found, had been kidnapped by the Huks from her barrio and taken to the mountains. But even then, the evidence leaves no room for doubt that she thereafter became a real Huk by joining the Huk organization which had taken up arms against the Government for the purpose of overthrowing it, held important offices therein and took active part in some of its activities, such as the gathering or commandeering of supplies for the maintenance of the organization and the holding of meetings in the different barrios for the purpose of winning the country people to the Huk cause. This

is sufficient to make her guilty of rebellion. Considering, however, that, as testified to by one of the government witnesses, she did not take part in the raids conducted by her fellow-Huks, and taking also into account the circumstances under which she became identified with the Huks, we are inclined to yield to counsel's plea that she is entitled to the mitigating circumstance mentioned in paragraph 13 of the Revised Penal Code in that she "had no intention to commit so grave a wrong as that committed." This, together with the circumstance of voluntary surrender, which was appreciated by the lower court and amply supported by proof, entitles her to a penalty next lower in degree to that prescribed by law, which is *prisión mayor*.

WHEREFORE, the judgment below, in so far as the appellants Fernandito Togonon and Coronacion Chiva are concerned, is modified as follows: Fernandito Togonon stands convicted only of simple rebellion and to suffer the corresponding penalty imposed by the lower court for that crime, that is, 6 years and 1 day of *prisión mayor*; but his conviction for double murder is annulled and set aside. Coronacion Chiva is likewise convicted of single rebellion, and considering the presence of two mitigating circumstances, not offset by any aggravating circumstance, the penalty imposed upon her is reduced to 2 years, 4 months and 1 day of *prisión correccional* with a fine of ₱5,000.

Without costs in this instance.

Parás, C. J., Bengzon, Bautista Angelo, Concepción, LABRADOR, J., dissenting:

LABRADOR, J., dissenting and concurring.:

I dissent for the reasons stated in the dissenting opinion of Mr. Justice Montemayor in the case of People *vs.* Hernandez, G. R. No. L-6025, in which dissent I concurred.

MONTEMAYOR, J., concurring and dissenting.:

I concur as regards appellant Chiva. But with respect to appellant Togonon, I dissent, believing that he is guilty of the complex crime of rebellion with murder etc. according to my dissenting opinion in the case of People *vs.* Hernandez G. R. No. L-6025.

Judgment modified.

[No. L-10579. March 22, 1958]

ELIZABETH CONSTANTINO, minor, represented by her mother LOURDES HISOLA, guardian *ad litem* and LOURDES HISOLA, petitioners, *vs.* THE COURT OF APPEALS, ET AL., respondents.

1. PLEADING AND PRACTICE; WHERE ANSWER IS NOT MERE GENERAL DENIAL BUT IT IS A SUBSTANTIAL COMPLIANCE WITH THE RULE.— Where the answer of the defendant does not merely state that he "specifically denies each and every allegation contained in each and every paragraph of the complaint" as to characterize it as a mere general denial, but rather, it deals specifically with each material allegation of fact either by admitting or by denying the same or by stating that he is without knowledge or information sufficient to form a belief as to the truth thereof and even contains some affirmative defenses and a counterclaim, HELD; that it is a substantial compliance with the rule.
2. *Id.*; *Id.*;—Where the answer states "that defendant DENIES the averment contained in paragraphs 4 and 5 of the complaint" and said paragraphs contain only one material allegation each and both were specifically denied, HELD; that this is enough to comply with the rule.

REVIEW by certiorari of a decision of the Court of Appeals.

The facts are stated in the opinion of the Court.

Josias K. Guinto for petitioners.

Enrique O. Chan for respondents.

BAUTISTA ANGELO, *J.:*

This is a petition for certiorari seeking to set aside a decision of the Court of Appeals and to obtain a favorable judgment for support.

In a complaint filed in the Court of First Instance of Manila, it is alleged that Elizabeth Constantino was the offspring of the illicit relations which Casimiro Constantino had maintained with Lourdes Hisola as a result of which the latter suffered damages. Casimiro denied this allegation and interposed several special defenses as well as a counterclaim. After hearing, the court rendered judgment declaring Elizabeth an illegitimate child of Casimiro and ordering the latter to pay her, through her guardian, the sum of ₱390 as support in arrears and an allowance of ₱30 a month from October 17, 1954. The court also ordered Casimiro to pay Lourdes Hisola the sum of ₱500 as damages and ₱200 as attorney's fees and costs.

When the case was taken to the Court of Appeals, the latter declared that there was no evidence to show that Elizabeth is an illegitimate child of Casimiro and, consequently, reversed the decision of the lower court. Hence this petition for review.

The facts found by the Court of Appeals are: On September 17, 1953 Lourdes Hisola gave birth to a baby girl at the Santo Tomas Hospital, Manila, who was registered in the local civil registrar's office as Elizabeth Constantino. Lourdes was employed as a servant in the house of Casimiro until February 2, 1953 when she transferred to the house of Lucia Labrador. After two months, Lucia noticed that Lourdes was getting unusually stout and asked the latter if she was pregnant. Lourdes broke into tears and admitted that she was in fact pregnant and pointed to Casimiro as the author of her pregnancy.

Analyzing the evidence, the court made this comment: "We cannot take Lourdes seriously when, pointing to Elizabeth, she said: 'Ella es nuestra hija', (indicando al demandado Casimiro). For such statement is gratuitous without the proof of the illicit relations which the defendant had allegedly maintained with her, and that out of such illicit relations Elizabeth was born. No evidence to that end can be found in the record. * * * There is no evidence that Elizabeth Constantino is an illegitimate child of Casimiro Constantino * * *."

It is now contended that even if the evidence is not sufficient to establish that Elizabeth is the illegitimate child of Casimiro, the Court of Appeals erred in dismissing the complaint because Casimiro should be deemed to have admitted his illicit relations with Lourdes when he interposed merely a general denial to this allegation. Thus, the complaint contains the following allegations: "4. That sometime during December, 1952, in his dwelling, defendant succeeded in cohabiting with plaintiff, Lourdes Hisola; 5. That plaintiff, Elizabeth Constantino, was conceived during the cohabitation between Lourdes Hisola and defendant;" whereas the answer of Casimiro merely meets these allegations in the following manner: "4. That defendant DENIES the averment contained in paragraphs 4 and 5 of the complaint." It is claimed that this is tantamount to a general denial.

There is no merit in this contention. Under Rule 9, section 7, "The defendant must deal specifically with each material allegation of fact the truth of which he does not admit and, whenever practicable, shall set forth the substance of the matters which he will rely upon to support his denial." Former Chief Justice Moran makes the following comment on this requirement:

"The purpose of requiring the defendant to make a specific denial is to make him disclose the matters alleged in the complaint which he sincerely intends to disprove at the trial, together with the matters which he relies upon to support the denial. Under the old procedure, the defendant was allowed to conceal, under a general denial, the true facts of his case, and at the same time compel the proving of facts alleged in the complaint which he,

at the trial, does not even attempt to dispute. He was thus given the advantage, doubly unfair, of presenting his true facts only at the trial as a surprise to the plaintiff, and of compelling the latter to incur unnecessary expenses for proving facts not really disputed by him. The new system of specific denial removes this unfair advantage, unnecessary expenses and waste of time, by compelling both parties to lay their cards on the table, thus reducing the controversy to its true terms. As was well said in a case, 'a litigation is not a game of technicalities in which one, more deeply schooled and skilled in the subtle art of movement and position, entraps and destroys the other. It is, rather, a contest in which each contending party fully and fairly lays before the court the facts in issue and then, brushing aside as wholly trivial and indecisive all imperfections of form and technicalities of procedure, asks that justice be done upon the merits. Lawsuits, unlike duels, are not to be won by a rapier's trust.' (Moran, *Comments on the Rules of Court*, Vol. I, 1957 Ed., p. 158)

Indeed, the denial is not specific merely because it is so qualified by the defendant. If he "specifically denies each and every allegation contained in each and every paragraph of the complaint", the denial is general regardless of the word "specifically" with which he tries to qualify his denial.¹ In one case, the defendant's answer "partly admits and partly denies" all the allegations, except a minor one, in the complaint without specifying which allegations were admitted and which were denied, and the court said that "this answer was not only not a defense but operated as an admission of the plaintiff's averments", and it added that "a denial is not specific simply because it is so qualified by the defendant. A general denial does not become specific by the use of the word 'specifically.'" (Cortes *vs.* Kim, L-3926, October 10, 1951)

But the answer of Constantino does not merely state that he "specifically denies each and every allegation contained in each and every paragraph of the complaint" as to characterize it as a mere general denial. Rather, it deals specifically with each material allegation of fact either by admitting or by denying the same, or by stating that he is without knowledge or information sufficient to form a belief as to the truth thereof. The answer even contains some affirmative defenses and a counter-claim. This is a substantial compliance with the rule.

It is true that with regard to paragraphs 4 and 5 of the complaint the answer merely states "That defendant DENIES the averment contained in paragraphs 4 and 5 of the complaint", but this is enough to comply

¹ *El Hogar Filipino vs. Santos*, 74 Phil. 79; *Dacanay, et al. vs. Lucero*, 76 Phil. 189; *Phil. Trust Co. vs. Reyes*, 75 Phil. 760, 763; *Baetamo vs. Amador, et al.* 74 Phil. 735; *Lichauco vs. Guash*, 76 Phil. 5; *Trias vs. Court of First Instance*, 75 Phil. 757; See also *Lagrimas, et al. vs. Lagrimas*, L-6462, May 28, 1954.

with the rule, because said paragraphs contain only one material allegation each and both were specifically denied.

An indication that plaintiff was not taken by surprise and that she knew well that defendant denied the allegation regarding cohabitation or illicit relation is the fact that she went to trial and presented evidence in support of said allegation. The only trouble is that such evidence was found to be incompetent or insufficient by the Court of Appeals, and to remedy the deficiency, appellant now resorts to this technicality. Such scheme cannot be permitted.

WHEREFORE, the decision appealed from is affirmed, without pronouncement as to costs.

Parás, C. J., Montemayor, Labrador, Concepción, Reyes, J. B. L., Endencia, and Félix, JJ., concur.

Bengzon, and Padilla, JJ., concur in the result.

REYES, A., J.:

I concur in the result but without subscribing to the view that the answer has *specifically* denied the allegations of fact contained in paragraphs 4 and 5 of the complaint.

Decision affirmed.

DECISIONS OF THE COURT OF APPEALS

[No. 17130-R. May 19, 1958]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.*
SERAPIO PEDRAZA, defendant and appellant *

1. PUBLIC OFFICERS; ACQUITTAL; REINSTATEMENT; ACQUITTAL DOES NOT ENTITLE ONE AS A MATTER OF RIGHT TO REINSTATEMENT.—The acquittal of an accused does not entitle the latter as a matter of right to reinstatement for the reason that his acquittal will not operate as a bar to the prosecution of the administrative case based on the same facts constituting the criminal action for the following reasons: (1) reinstatement is a matter within the discretion of the proper department head; and (2) the degree of proof required in one is different from that required in the other.
2. ID.; ID.; REINSTATEMENT NOT WITHIN JURISDICTION OF COURT OF APPEALS.—The matter of reinstatement together with the payment of back salaries is not within the jurisdiction of the Court of Appeals; that is a matter which should be submitted to and passed upon by the corresponding executive authority.

APPEAL from a judgment of the Court of First Instance of Samar. Fernandez, *J.*

The facts are stated in the opinion of the Court.

Jacinto R. Bohol, for defendant and appellant.

Assistant Solicitor General Esmeraldo Umali and *Solicitor Conrado T. Limcaoco*, for plaintiff and appellee.

SAN JOSE, *J.*:

Serapio Pedraza and Victoriano Ibañez were charged in an amended information filed in the Court of First Instance of Samar with the crime of falsification of public document, committed as follows:

That on or about the 14th day of November, 1951, in the Municipality of Zumarraga, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, the former being then the Municipal Treasurer of Zumarraga and the latter a public school teacher then assigned as chairman of the Board of Inspectors for Precinct No. 7, of said Municipality of Zumarraga, for the General Elections of November 13, 1951, both duly appointed and qualified as such, conspiring and confederating together and helping each other and taking advantage of their respective positions, and by reason thereof were entrusted with the care and custody of election returns, specifically Election Returns No. 14708, for said Precinct No. 7, in connection with the elections of November 13, 1951, did then and there willfully, unlawfully and feloniously commit falsification of a public document, specifically Election Returns No. 14708, for said Precinct No. 7, in connection with the elections of November 13, 1951, did then and there willfully, unlawfully and feloniously commit falsification of a public document, specifically Election Returns No. 14708, by then and there

* See Resolution of July 12, 1958

erasing the figure "128", the true and genuine number appearing on page 3 of said election returns, right hand upper margin, which represents the true number of votes received by Canuto Lim in the above-mentioned precinct, then candidate for Municipal Mayor of Zumarraga, and writing in place of the erased figure "128" the figure "151", thus making it appear that the latter received 151 votes, when in truth and in fact, and as the accused well knew, the latter received 128 votes only, thereby making a material alteration in a genuine document which changes its meaning.

Contrary to law.

However, upon the instance of the provincial Fiscal, accused Victoriano Ibañez was discharged from the information and utilized as a witness for the prosecution. And, after due trial, accused Serapio Pedraza was found guilty as charged and sentenced to suffer an indeterminate penalty ranging from four (4) years and two (2) months of *prisión correccional* to eight (8) years and one (1) day of *prisión mayor*, with the accessories of the law, to pay a fine of THREE THOUSAND PESOS (₱3,000.00) with subsidiary imprisonment in case of insolvency, and to pay one-half of the costs.

The present appeal interposed by said accused Serapio Pedraza is predicated on the following assignments of error:

1. That the trial court erred in finding appellant to be the one who erased the figure 128 and wrote 151 on Exhibit A-1.
2. That the trial court erred in declaring that the act of appellant's causing the opening by his chief clerk of the ten envelopes containing the election returns and the making of the tabulated report (Exhibit D) whereon the votes in figure rather than in words (Exhibit A-1) were made to appear, constitute falsification, and despite the fact that the said acts were not alleged in the information.
3. That the trial court erred in declaring appellant guilty beyond reasonable doubt of the crime charged.

The record discloses that in the general elections of November 13, 1951, Dominador Bolok and Canuto Lim were the candidates for mayor of the municipality of Zumarraga, Samar. After the closing of the polling place, the Board of Election Inspectors of precinct No. 7, located at barrio Mualbual, municipality of Zumarraga, composed of Victoriano Ibañez, chairman, Francisco Albos and Dionisio Cuanzon, members, and Benedicta Baylon, poll clerk, canvassed the votes cast therein and immediately thereafter made, completed and signed in quadruplicate a written statement or return of the election. Then each of the four copies was placed in a separate envelope, the flaps of which duly folded were partially sealed with wax. Each envelope was duly signed by the members of the board. One envelope was placed inside the box for valid ballots while the other three were kept in the possession of the chairman, Victoriano Ibañez. At about 3 o'clock in the morning of November 14, 1951, chairman Ibañez

and the other members of the board left the precinct. Ibañez brought with him the three envelopes containing the election returns. Inspector Albos and poll clerk Baylon carried the ballot boxes and some election papers. They went to the house of Necitas Ponferrada. While there, they placed the election returns on a table. Then there arrived Agapito Deguia, Semon Tan, Francisco Castillo and some other companions. When Sergio Abella came up the house, an altercation arose between him and Agapito Deguia. Abella drew his .45 caliber pistol and with it hit Agapito Deguia on the head. There was a commotion. Ibañez, Albos and Baylon, as well as the other men ran away in all directions, for fear of being shot (pp. 33-36, t. s. n.).

The evidence further shows that at about 11 noon of November 14, 1951, Victoriano Ibañez arrived at the office of the municipal treasurer, herein appellant, and asked for sealing wax with which he sealed the three envelopes containing the election returns. Ibañez delivered to appellant two of the envelopes, one for himself and the other for the provincial treasurer. Ibañez mailed at the post office the third envelope addressed to the Commission on Elections.

There can be no doubt that the election return, Exhibit A, was falsified such that the figure "128" written after the words "one hundred twenty-eight" was erased and figure "151" was superimposed over it. The question to be determined is as to who should be held responsible therefor.

It is quite possible that during the commotion in the house of Nicetas Ponferrada when everybody scampered for safety, one of the more enterprising among them took advantage of the commotion, most especially the one guarding the election returns and committed the falsification in question, not only on the election return, Exhibit A, given to the appellant, but also on the election return, Exhibit 1, submitted to the Commission on Elections. It is noteworthy that Exhibit 1 was the very election return mailed by Ibañez to the Commission on Elections. It never passed the hands of appellant, yet it has been similarly falsified, in the very same manner as the election return, Exhibit A, given to appellant. If appellant never got hold of Exhibit 1, then how could he have falsified it, as it indeed appears to be falsified? From the circumstances obtaining in this case, it appears that the falsification in Exhibit A, given to appellant. If appellant never got hold by the same hand. This, taken with the fact that somebody, other than appellant, had the chance to falsify these two election returns while they were on the table in the house of Ponferrada, the inevitable conclusion is that appellant did not have anything to do with said falsification.

Moreover, there is no direct evidence to show that appellant committed the falsification in question. If at all, the only direct evidence pointing to appellant as the culprit is the testimony of Victoriano Ibañez. However, during the trial, Ibañez stated categorically that he *saw* appellant falsifying the election returns. Yet, during the trial of Election Protest No. 4226, Dominador Bolok *vs.* Canuto Lim, on January 3, 1952, Ibañez, just as positively, declared that he *did not know* who made erasures and the falsification on the election return (pp. 49-50, *t. s. n.*). During the cross-examination, Victoriano Ibañez was impeached on this particular point. If he did not know who committed the crime complained of, then how could he so definitely declare that he *saw* appellant "erasing the election return"? It is quite obvious that he was not telling the truth in the second instance. Moreover, we must not lose sight of the fact that Victoriano Ibañez was originally one of the accused in this case, but he was discharged from the information in order that he may be utilized as a witness for the prosecution. It is most probable that it is he who is responsible for the alterations in the election returns, for he had the opportunity of handling both Exhibit A and Exhibit 1.

In view of the foregoing, the decision appealed from is reversed and appellant is hereby acquitted, with costs *de officio*. So ordered.

Ocampo and Santiago, JJ., concur.

Judgment reversed; appellant acquitted.

RESOLUTION

July 12, 1958

SAN JOSE, J.:

On June 14, 1958, appellant filed a motion wherein he prays that the dispositive part of the decision rendered in this case be reconsidered to the effect that his reinstatement "into his position as Municipal Treasurer of Zumaraga be ordered, and his salaries from the date of suspension until he is actually reinstated paid."

By resolution of this Court dated June 27, 1958, the Solicitor General was directed to submit his comment on said motion within five days from notice thereof. In compliance therewith, on July 3, 1958, the Solicitor General filed his "comment" in which he says, among other things, that the remedy prayed for by appellant "is not within the province or jurisdiction of this Honorable Court," appellant's "remedy, if any, lying elsewhere." He further says that "the acquittal of an accused does not entitle the latter as a matter of right to reinstatement for the reason that his acquittal will not operate as a bar to the prosecution of the administrative case based on the same facts constituting the criminal action for the following

reasons: (1) reinstatement is a matter within the discretion of the proper department head (citing authorities); and (2) the degree of proof required in one is different from that required in the other (citing authority)."

We are entirely in accord with the Solicitor General. The matter of appellant's reinstatement as a municipal treasurer together with the payment of his back salaries is not within our jurisdiction; that is a matter which should be submitted to and passed upon by the corresponding executive authority.

WHEREFORE, the motion for reconsideration filed by appellant is hereby denied. So ordered.

Paredes and Lanting, JJ., concur.

Motion for reconsideration denied.

[No. 19659-R. May 27, 1958] ✓

FELISA ANDINO, MAXIMINA ROSAUT, EUSEBIO BOHOLANO, MARIA ESPARES, and LUDOVINA GOMEZ, plaintiffs and appellants, *vs.* STANDARD VACUUM OIL COMPANY, defendant and appellee.

CONTRACTS; COMPROMISE; INADEQUACY OF CONSIDERATION INSUFFICIENT TO VITIATE CONTRACT. In the absence of fraud, mistake or undue influence, mere inadequacy of the consideration will not vitiate a contract. Article 1355, new Civil Code; *Askay vs. Cosalan*, 46 Phil., 179, 182; *Gabriel vs. Monte de Piedad y Caja de Ahorros*, et al., 71 Phil., 497, 501; *Garcia vs. Manas*, 45 Off. Gaz., No. 4, 1815, 1817; 11 Am. Jur., p. 278. And "where *** compromise of doubtful rights is voluntary and there is no fraud or imposition, it will be upheld however disadvantageous; for such a compromise will not be opened or rescinded by chancery, even when unequal or harsh in its operation, nor where the only consideration for the relinquishment of a valid claim on the one side is the abandonment of an invalid one on the other". 11 Am. Jur., p. 278. ✓

APPEAL from a judgment of the Court of First Instance of Negros Occidental. Arellano, *J.*

The facts are stated in the opinion of the Court.

Luis G. Torres, for plaintiffs and appellants.
Fulgencio Vega, for defendant and appellee.

SANCHEZ, *J.*:

At about 9:00 o'clock in the evening of April 6, 1950, a collision occurred between a Ford V-8 truck bearing Plate No. T-22517, owned by defendant corporation Standard Vacuum Oil Company, and another truck bearing Plate No. T-23004, as a result of which Zosimo Limenso, Ambrosio Rosaut, Simeon Barsabal *alias* Narciso Boholano, Pelapio Maybanting and Aniceto Socioco, who were riding on the last-named truck, died. Other passengers of the said truck were injured. Driver of defendant's truck was Gregorio Cordova. The accident took place on the highway in sitio Lacab about two and one-half kilometers from the *poblacion* of Talisay, Negros Occidental.

As a consequence of this collision, Gregorio Cordova was prosecuted before the Court of First Instance of Negros Occidental for multiple homicide and serious physical injuries thru reckless imprudence in Criminal Case No. 2829 of the said court entitled "People of the Philippines, plaintiff, versus Gregorio Cordova, defendant." On April 12, 1951, judgment was rendered by the trial court in the criminal case just referred to convicting defendant. From that decision, the latter appealed to this Court where the said decision was affirmed. CA-G. R. No. 7875-R, August 4, 1952. No pronouncement as to damages was made by either court for the reason that the offended parties reserved their right to file independent civil actions therefor.

Hence, this suit for damages.

Original plaintiffs were Felisa Andino, Maximina Rosaut, Eusebio Boholano, Maria Espares and Ludovina Gomez. Simplicio Limenso, father of the deceased Zosimo Limenso, was substituted for Felisa Andino, wife of Simplicio; Luisa Pagador was substituted for Maximina Rosaut, the former being the legal wife of the deceased Ambrosio Rosaut, brother of Maximina; Nicomedes Barsabal, father of the deceased Simeon Barsabal, was substituted for Eusebio Boholano. Plaintiff Ludovina Gomez is also known by the name "Leodovina Gomez".

Defendant corporation, *inter alia*, set up the defense that each of plaintiffs had entered into an agreement with said defendant for the settlement of their respective claims.

The judgment below found for defendant and dismissed plaintiffs' complaint, without costs.

Plaintiffs appealed.

The errors assigned in appellants' brief primarily raise questions of fact.

The record discloses that each of appellants had separately executed in favor of appellee corporation identically worded documents entitled "Release", one of which, Exhibit 5—here treated as a model—is as follows:

"RELEASE

"I, SIMPLICIO LIMENSO, widower, Philippine citizen, of legal age, and a resident of Barrio Macasilao, Municipality of Calatrava, Province of Occidental Negros, for and in consideration of the sum of SIX HUNDRED PFSOS (P600), Philippine Currency, receipt of which is hereby acknowledged, have released and quitclaimed and by these presents do release and quitclaim the Standard Vacuum Oil Company, a foreign corporation, duly authorized to transact business in the Philippines and domiciled therein in the City of Manila, from any and all liability for the accidental death of my son, Zosimo Limenso, who was killed by virtue of an accident which occurred in Barrio Lacab, Municipality of Talisay, Province of Occidental Negros, on April 6th, 1950, when the truck in which he was riding driven by Federico Dionila collided with a truck belonging to the Standard Vacuum Oil Company driven by Gregorio Cordova.

"I hereby bind myself not to institute any civil or criminal action against the said Standard Vacuum Oil Company; and I hereby waive any and all rights granted me by law that I may have against said company on account of this accident.

"IN WITNESS WHEREOF, I have signed these presents in the Municipality of Calatrava, Province of Occidental Negros, this 1st day of April, 1952.

SIMPILCIO LIMENSO
(Thumbmark)

Signed in the Presence of:

(Sgd.) Juan Sanchez
(Sgd.) Juan Millendres."

(Acknowledgment omitted)

Each of the said releases was acknowledged before a notary public.

Here is the evidence, pro and con, on each individual claim:

1. SIMPLICIO LIMENSO—This appellant was the father of Zosimo Limenso who, at the time of his death, was 15 years of age, single. He admits having thumbmarked the public document of release, Exhibit 5, the body of which is heretofore transcribed. He claims, however, that the American manager of appellee corporation did not explain to him the contents of the said document. He adds that in the presence of Nicolas D. Destua, the notary public who acted as interpreter, the said American made him sign that document telling him that the sum of ₱600 which he then received was for "gastos por la muerte de su difunto hijo."

Appellee presented Nicolas D. Destua, notary public for about 20 years, before whom the document of release was acknowledged and who had known Simplicio Limenso since before the war. Destua testified that the sum of ₱600 was received by Simplicio as consideration for the release of appellee from liability for the death of Zosimo Limenso; that he translated for appellant the contents of the said document into the Visayan dialect before the latter signed the same; and that thereupon, appellant informed him that the contents of the said document were those previously agreed upon verbally between him and the representative of the company.

The testimony of Destua was corroborated by Juan Millendres, General Supervisor of appellee company in Negros and Iloilo. Millendres declared that he received instructions from the principal office of the company in Manila to contact appellants and arrange settlement with them in reference to their claims against appellee by reason of the accident in question. So, Millendres proceeded on his mission and he contacted the local authorities and asked them to help him locate these people. Thus it was that in February, 1952, Millendres asked for the intercession of Juan Sanchez, municipal councilor of Calatrava. Sanchez presented appellant Simplicio Limenso to Millendres. The latter broached to Limenso the object of his mission and informed him that the company was disposed to pay ₱600 in settlement for his claim for the death of Zosimo. Limenso requested two days within which to mull over the matter. In the early part of March following, appellant accompanied by Councilor Juan Sanchez, informed Millendres of his conformity. Whereupon, Millendres returned to Iloilo to prepare the release, Exhibit 5, which thereafter, on April 1, 1952, was executed by Simplicio Limenso in Calatrava with Juan Sanchez and Juan Millendres as instrumental witnesses, and ratified before the notary, Nicolas D. Destua. The sum of ₱600

then paid to Simplicio Limenso was in full payment of his claim.

2. LUISA PAGADOR—This appellant is the widow of the deceased Ambrosio Rosaut. She thumbmarked the document of release, Exhibit 10, identical in terms to Exhibit 5, on April 2, 1952 also in Calatrava, before Notary Public Nicolas D. Destua. She claims, however, that this document was neither read nor explained to her. She simply thumbmarked the same. She admits though having received the sum of ₱600.00 set forth in the said deed. As to the concept thereof, she testified that an American told her, "Recibe ésta cantidad como ayuda por la muerte de su marido."

The notary, Nicolas D. Destua, however, declared that the said document was translated by him into the local dialect to Luisa Pagador; that he asked her if she had any objection thereto; and that Luisa answered that the same represented her previous agreement with Millendres.

Juan Millendres corroborated the testimony of Destua and added that the sum of ₱600 was given to Luisa Pagador for the amicable settlement of her claim for the death of her husband, Ambrosio Rosaut. Millendres denied that that sum was given by way of aid for the death of said Rosaut.

3. NICOMEDES BARSABAL—This appellant is the father of Simeon Barsabal *alias* Narciso Boholano who died single. He admits having signed Exhibit 8, the document of release in favor of appellee dated March 31, 1952, with Julio Fuentebella and Juan Millendres as attesting witnesses. The document was ratified on the same day before Felix Carreon, notary public, in Escalante, Negros Occidental. Incidentally, Felix Carreon, at the time, was the municipal secretary of that town.

Nicomedes Barsabal claims that the document in question was not translated to him in the Visayan dialect before he signed the same and that he did not understand the contents thereof. He admits, however, that he received the sum of ₱600 in check which he indorsed to a Chinaman of that locality who gave him cash in exchange. He also states that that sum was "como ayuda por la muerte de su hijo", as told to him by an American who spoke to him in Visayan.

Felix Carreon, notary public for about 21 years, declared that the document of release, Exhibit 8, was translated by him to appellant in the Visayan dialect, after which it was signed by the latter in the presence of witnesses Julio Fuentebella, Chief of Police of Escalante, and Juan Millendres. In this version, Juan Millendres corroborated him.

4. MARIA ESPARES (or APARES) also known as MARIA VDA. DE MAYBANTING—This appellant is the mother of the

deceased Pelagio Maybanting, who died at the age of 23, single. She denied having placed her thumbmark on the release agreement, Exhibit 7. She claimed that she did not understand that document and that an American representative of appellant, upon delivering to her the sum of ₱600, told her that the same was "como una ayuda por la muerte de mi hijo".

Nicolas D. Destua, the notary public before whom the above document was acknowledged, testified that this appellant thumbmarked the said document in the presence of Juan Millendres and Gregorio Maybanting as instrumental witnesses; that the said document was translated by him to appellant into the Visayan dialect, and that the payment of ₱600 was made as complete settlement of her claim for the death of her son.

Juan Millendres, in turn, declared that in February, 1952, he first contacted Maria Espares in barrio Mocasilao, municipality of Calatrava. He told Maria that appellee desired to settle amicably her claim for the death of her son and was disposed to pay the sum of ₱600; that this appellant repeatedly refused to accept the offer of compromise; that he told her that the company was offering the amount in good faith; and that she could refuse or accept the same. Whereupon, Maria told Millendres that she had to consult her son who was then a high school student. It was in August following that Millendres received a telegram from Councilor Juan Sanchez informing him that appellant had finally accepted the offer and was ready to sign the corresponding document. Accordingly, the release, Exhibit 7, was executed in Calatrava, on August 21, 1952, by appellant in the presence of his son Gregorio Maybanting and Juan Sanchez as instrumental witnesses. The document was thumbmarked by appellant after the same was interpreted into the Visayan dialect. Millendres farther declared that he delivered to appellant a check of ₱600.

5. LUDOVINA (*or* LEODIVINA) GOMEZ—This appellant is the widow of the deceased Aniceto Socioco. She admits having thumbmarked the release, Exhibit 2, on March 31, 1952 in Escalante, Negros Occidental. This document appears to have been executed in the presence of Juan Millendres and Gonzalo Gomez as attesting witnesses. Gonzalo Gomez, in passing, is a brother of Ludovina Gomez and was councilor of the municipality of Escalante. The acknowledging officer was notary Felix Carreon.

Appellant, however, testified that she received the sum of ₱600 set forth in the release, Exhibit 2, from the manager of appellee corporation "for the expenses for the burial of my husband."

Witness Felix Carreon, the notary public before whom the document in question was ratified, assured the court

that he personally translated for appellant into Cebu-Visayan dialect the contents of Exhibit 2 and that the latter thereafter stated that the contents thereof were correct. According to Carreon, Gonzalo Gomez, brother of appellant, was present when he read the said document in the vernacular.

The other witness, Juan Millendres, who contacted Ludovina Gomez thru the Chief of Police of Escalante, confirmed in full the testimony of Felix Carreon.

The evidence having been recited, the problem before us now is to determine whether or not this Court will give effect to the documents of release heretofore mentioned.

A rule so well settled in this jurisdiction and consistently supported by jurisprudence is that which says that to overthrow a notarial document, evidence must be clear, convincing and beyond a mere preponderance. The documents of release herein involved are all notarial documents. It is, therefore, for us to examine whether or not appellants' evidence to overcome their binding effect measures up to that legal yardstick.

Appellants are one in their protestations that the documents in question have not been translated to them in the dialect and that, accordingly, they did not know the contents thereof. Further, they say that the sum of ₱600 received by each of them was given simply as aid for the death of their respective relatives.

The two notaries who ratified the several documents are from of the localities in which appellants live. In the execution of said documents, either relatives of appellants or municipal officials assisted them. There are five different claimants. The documents were separately executed, in two different municipalities, and at different times. Thus, the releases of Ludovina Gomez, Exhibit 2, and Nicomedes Barsabal, Exhibit 8, were executed in Escalante on March 31, 1952; the release, Exhibit 5, executed by Simplicio Limenso in Calatrava bears date of April 1, 1952; that by Luisa Pagador, Exhibit 10, was executed on April 2, 1952, also in Calatrava; and finally, the release executed by Maria Espares Vda. de Maybanting in Calatrava, Exhibit 7, was at a very much later date, August 21, 1952. In these circumstances, it is highly improbable that appellants have all fallen victims to false representations and deccit. There is ample evidence coming from reliable witnesses that the documents aforesaid were executed by appellants after they had been fully apprised of their contents and after they have agreed to the terms thereof.

That is more, the testimony of each of appellants remains uncorroborated. In *El Hogar Filipino vs. Olviga, et al.*, 60 Phil., 17, 21, the Supreme Court aptly observed—

"A brief analysis of such evidence will show how insufficient it is to overcome or detract from the evidentiary force of the public instrument relating to the transfer made by Timoteo in favor of Genaro T. Tabien. It should be borne in mind that said public instrument was signed in the presence of two instrumental witnesses and appears to have been ratified by Timoteo before a notary public. If the biased and interested testimony of a grantor and the vague and uncertain testimony of his son are deemed sufficient to overcome a public instrument drawn up with all the formalities prescribed by the law then there will have been established a very dangerous doctrine which would throw wide open the doors to fraud."

Really, if appellee gave the sum of ₱600 to each of appellants merely as an aid or, for that matter, as an act of charity, the said appellee would not have gone thru the expense and laborious task of contacting appellants in different places, investigating their right to receive the amounts and making them sign not only the releases in question but also other documents calculated to safeguard the interests of the said company.

It is unimportant now that, as appellants claim, the amount given each of them is inadequate. In the absence of fraud, mistake or undue influence, more inadequacy of the consideration will not vitiate a contract. For, the compromise was fairly and deliberately made; it was *bona fide*. Article 1355, new Civil Code; *Askay vs. Cosalan*, 46 Phil., 179, 182; *Gabriel vs. Monte de Piedad y Caja de Ahorros, et al.*, 71 Phil., 497, 501; *Garcia vs. Manas*, 45 Off. Gaz., No. 4, 1815, 1817; 11 Am. Jur., p. 278. And, the present claims of appellants are not included amongst those which by law may not be compromised. Article 2035, new Civil Code.

And finally, there are other circumstances which should be considered. At the time of the negotiations for and execution of the documents of release here involved, with the exception of that of Maria Espares Vda. de Maybanting, the liability of appellee's driver, Gregorio Cordova, had not as yet been definitely fixed by the courts of justice. And, it is not altogether certain that civil liability may after all be clamped upon appellee. If thus results that the amount received by appellants cannot be said to be unconscionably inadequate. Besides, American Jurisprudence, Vol. 11, page 278, is authority for the statement that "where, however, a compromise of doubtful rights is voluntary and there is no fraud or imposition, it will be upheld however disadvantageous; for such a compromise will not be opened or rescinded by chancery, even when unequal or harsh in its operation, nor where the only consideration for the relinquishment of a valid claim on the one side is the abandonment of an invalid one on the other."

WHEREFORE, it appearing that the decision appealed from is in accordance with the facts and the law, the same is hereby affirmed *in toto*.

No costs on appeal.

IT IS SO ORDERED.

Natividad and Angeles, JJ., concur.

Judgment affirmed.

[No. 20045-R. May 27, 1958]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee,
vs. APOLONIO CABURAO, defendant and appellant

CRIMINAL LAW; PENALTIES; PRINCIPLES ON THE APPLICATION OF THE INDETERMINATE SENTENCE LAW ON COMPLEX CRIMES.—For the purpose of the Indeterminate Sentence Law a penalty of more than one year is given a minimum which is to be taken from the penalty immediately lower. There are two principles on the matter when the crime involved is a complex one. One is that the penalty immediately lower is the next below the penalty set for the gravest crime. The other is, the maximum period becoming an independent penalty, the next lower is the period immediately below which, by analogy, becomes also an independent penalty.

APPEAL from a judgment of the Court of First Instance of Nueva Ecija. Makasiar, J.

The facts are stated in the opinion of the Court. *Policarpio O. Sta. Romana*, for defendant and appellant. *Assistant Solicitor General Jose P. Alejandro* and *Solicitor Roman Cansino, Jr.*, for plaintiff and appellee.

MARTINEZ, J.:

Prosecuted for frustrated homicide in the Court of First Instance of Nueva Ecija, Apolonio Caburao was found guilty thereof and accordingly was sentenced to an indeterminate penalty of from two (2) years of *prisión correccional* to ten (10) years and one (1) day of *prisión mayor*, to indemnify the offended party Pablo Mariano in the sum of ₱1,000 and to pay the costs. He now comes on appeal citing no specific error committed by the Court below.

The government's version of the case is that Pablo Mariano, the aggrieved party, was in his yard in barrio Cami-ing, Guimba, Nueva Ecija, when he heard a gun firing in the direction of the yard of Alfredo Loquia. It was then about 7:00 o'clock in the evening of February 9, 1954 and curious to know the reason of the firing, he went to Loquia's yard. Upon arrival thereat he saw Bonifacio Sapin and Teofilo Abon wrestling with each other. He wanted to approach and cause them to stop but he was fired at by Apolonio Caburao who was then standing close by. Hit just below the abdomen, Mariano fell unconscious and in recovering he slowly walked his way home and told his wife that he had been fired at. He was taken to the Provincial Hospital in Cabanatuan City where he was given medical treatment. The physician, Dr. Gregorio A. Galang, who treated him, said:

"I looked up the records of the patient's last card in the hospital and the wounds I have treated on him in February 10, 1954, was a gun shot wound thru and thru abdomino-pelvic and perforating sigmoid colon and tangentially descending colon perforating urinary bladder." (t.s.n. p. 4—hearing of Feb. 22, 1956)

Dr. Galang added that the wound was of serious nature because:

"On operating him at 3:43 a.m. on February 10, I found in addition to the wounds I mentioned the following 'peritonitis, secondary to fecal and urine.' (t.s.n. p. 5--hearing of Feb. 22, 1956)

Mariano was discharged from the hospital on March 8, 1954. Although his wound required no more hospitalization his condition was not normal, Dr. Galang said. The record fails to reveal, however, as to how long he was unable to resume his ordinary life occupation. We shall compute, therefore, the duration of his inability to work from February 9 up to March 8, 1954 when he was discharged from the hospital—twenty-seven (27) days all in all.

The defense is partly a denial of Caburao's responsibility for the wounding of Pablo Mariano. Alternatively, if Mariano was hit when Caburao fired at him, then the shooting was necessary to repel an unlawful aggression, it is claimed.

Caburao, an overseer of the Hacienda Tinio in Guimba, was with other two overseers, Bonifacio Sapin and Pastor Estrada, in the yard of Loquia checking the threshed palay of the tenants of the Hacienda, when Pablo Mariano, Vicente Mariano, Teofilo Abon, Ricardo Abon and Marcelino Abon appeared and immediately surrounded the three overseers. Teofilo Abon asked Bonifacio Sapin for an affidavit allegedly executed by Pablo Mariano and inquired, at the same time, why he was being suspected of stealing palay. When Sapin answered that he could not say anything about the affidavit, nor why was Teofilo being suspected of stealing, the latter hit him with a club. A squabble ensued. Caburao ran for safety but Pablo Mariano, carrying an iron bar, chased him and threw the iron bar at him. At this juncture, Caburao heard a firing and, simultaneously, Pablo Mariano saying: "Manong Pilo has hit me." Caburao, after Mariano had flung the iron bar at him, fired his gun in the air and then at his assailant.

The appellant's evidence further discloses that on the morning of the day of the occurrence, Pablo Mariano, accompanied by Teofilo Abon, asked Bonifacio Sapin to return to him a certain affidavit he had signed regarding stealing of palay and was angered when Sapin answered it had been already delivered to the Chief overseer of the Hacienda. Mariano then threatened Sapin with physical harm if he refused to return it to him.

It is well to note that the alleged affidavit of Pablo Mariano (Exhibit 7) does not appear to be a confession or admission that he had taken part in any stealing of palay, so that it is improbable that he would feel molested if it was not returned to him. In the same token

we can hardly believe that he could have connived with Vicente Mariano, Teofilo Abon, Ricardo Abon and Marcelino Abon to retrieve his supposed affidavit through force. Moreover, Pablo Mariano, who was a tenant of the Hacienda, was no doubt aware that the overseers of the Hacienda were all provided with firearms—in fact, Caburao, Sapin and Estrada were each carrying a gun on that evening—and could not have relied on numerical superiority to carry out his purpose. Thus, what most likely had happened was that Bonifacio Sapin had an encounter with Teofilo Abon and, to intimidate the latter, one of Sapin's companions fired his gun. The gun report attracted the attention of Pablo Mariano who immediately went to see what had caused it.

It is improbable, to say the least, that Pablo Mariano could have been wounded by Teofilo Abon. On the other hand, even granting that Caburao shot Pablo Mariano after the latter had thrown an iron bar at him, he could not seriously claim that he had acted in self-defense. After Mariano had thrown his weapon he could not possibly have done any more harm, nor dared approach a man armed with a gun.

But we are convinced that Pablo Mariano was wounded in the abdomino-pelvic region by Caburao. Whether the latter fired when Pablo Mariano was about to approach Teofilo Abon and Bonifacio Sapin who were engaged then in a quarrel, or after Mariano had thrown an iron bar at him, in either case the firing was unnecessary. We are not convinced, however, that Caburao could have intended to kill Pablo Mariano. So that the case is, in our opinion, one of discharge of firearm with less serious physical injuries. Article 48 of the Revised Penal Code provides:

"When a single act constitutes two or more grave or less grave felonies, * * * the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period."

Thus, the appellant should be, as he is hereby, found guilty of discharge of firearm with less serious physical injuries. The penalty is the maximum period of the penalty for the gravest crime which, in this case, is the penalty for the discharge of firearm. Such penalty now ranges from two (2) years, eleven (11) months and eleven (11) days to four (4) years and two (2) months, and becomes an independent penalty. For the purposes of the Indeterminate Sentence Law a penalty of more than one year is given a minimum which is to be taken from the penalty immediately lower. There are two principles on the matter when the crime involved is a complex one. One is that the penalty immediately lower is the next below the penalty set for the gravest crime. The other is, the maximum period becoming an independ-

ent penalty, the next lower is the period immediately below which, by analogy, becomes also an independent penalty. We choose the first principle, being more favorable to the accused. The penalty next lower in degree to *prisión correccional* in its minimum and medium periods, for discharge of firearm, is *arresto mayor* in its medium and maximum periods.

The appellant should be, and is hereby, sentenced to an indeterminate penalty of from four (4) months and twenty-eight (28) days of *arresto mayor* to two (2) years, eleven (11) months and eleven (11) days of *prisión correccional*, and with this modification, the decision appealed from is hereby affirmed, with costs against the appellant.

Gutierrez David, Pres. J., and Hernandez, J., concur.

Judgment modified.

[No. 17411-R. July 11, 1958]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee,
vs. SUELA PAALAM, defendant and appellant

[No. 17412-R. July 11, 1958]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee,
vs. SUELA PAALAM, defendant and appellant

CRIMINAL LAW; INDUCEMENT OF MINOR TO ABANDON HOME OF PARENTS; REQUISITES.—It is an essential requisite of the crime of inducing a minor to abandon his home, prescribed and punished in Article 271 of the Revised Penal Code, that the inducement be actual, committed with criminal intent, and determined by a will to cause damage. This requisite cannot be deduced from facts proven. It must be established by competent evidence.

APPEAL from a judgment of the Court of First Instance of Sulu. Abbas, J.

The facts are stated in the opinion of the Court.

Esteban T. Bumanglag, for defendant and appellant.

Assistant Solicitor General Antonio A. Torres and Attorney Emerito M. Salva, for plaintiff and appellee.

NATIVIDAD, J.:

This is an appeal interposed by defendant, Suela Paalam, from a joint judgment of the Court of First Instance of Sulu in Criminal Cases Nos. 1290 and 1291 of that court, in each of which she was convicted of the crime of inducing a minor to abandon his home and sentenced to suffer an indeterminate penalty ranging from 6 months of *arresto mayor* to 2 years, 4 months and 1 day of *prision correccional*, to pay a fine of ₱200, with subsidiary imprisonment in case of insolvency, and to pay the costs.

The evidence shows that the defendant, Suela Paalam, a minor 19 years old, was for some time in the service of the family of Enrique Moras, first in Bais, Negros Oriental, and later in the City of Manila. In the early part of the year 1945, when the Morases resumed their residence at Bais, the defendant left their service, stayed for two months with her family in Dumaguete, Negros Oriental, and on July 2, 1955, went to Jolo, Sulu, with two other girls from Dumaguete to find work. Immediately upon her arrival at Jolo on that date, the defendant found employment as maid in the house of Mary Tan in that municipality with a salary of ₱25 a month. Mary Tan had a niece, Diansin Yap, a girl 14 years old, who since she became an orphan many years ago, had been living in her house under her custody. In the house next to that of Mary Tan lived Sabdatul Mohammad with her daughter Inn Samain, a girl also 14 years of

age. The defendant remained in the service of Mary Tan for one month, and during that time she and the girls Diansin Yap and Inn Samain, as was to be expected of girls of almost the same age, became close friends and on many occasions had indulged in intimate conversations. In one of those conversations Diansin Yap and Inn Samain asked the defendant where she was from, where she had been and what things she had seen. The defendant told them the story of her life. She told them that she was from Dumaguete and had been in the City of Manila for some time; that the City of Manila was a big city, a much better place to live in, where the movie houses were bigger and better than those found in Jolo, and where there were many places of amusement, adding that she would take them to that City at her own expense so that they could see and enjoy the beautiful things found there.

Dissatisfied with the treatment she was receiving from Mary Tan, the defendant left the latter's service on July 31, 1955, and moved to the house of her aunt, one Mrs. Teresa Sims, who lived in another part of Jolo. After two days, she found another employment as maid in the house of one Jogian Rasul in Tinda-Laud, Jolo.

In the afternoon of August 6, 1955, Diansin Yap and Inn Samain left their respective homes and together they went to the Post Office of Jolo to meet the defendant there. Diansin Yap testified that the defendant sent for them and told them to meet her at that place as she was going to take them to Manila, p. 3, t.s.n., but Inn Samain stated that the defendant told her to meet her at that post office in that afternoon long ago, while the former was living in the house of Mary Tan, p. 20, t.s.n. Failing to find the defendant in that post office, Diansin Yap and Inn Samain inquired for the house of Luis Sims, the former's uncle, and proceeded to that house. They found in that house Mrs. Teresa Sims from whom they inquired for the defendant. Mrs. Sims told them that the defendant was not there as she was working with a family in Tinda-Laud, but that they could spend the night in the house and wait for her as she would be coming home the next morning. Diansin Yap and Inn Samain agreed to stay, and they spent the night in the adjoining house of Asuncion Tiongco as the house of the Sims was very small.

In the evening of that day, August 6, 1955, Mary Tan noticed the absence of her niece, and Sabdatul Mohammad, that of her daughter. Together they made a search for the missing girls. They first went to the pier of Jolo to find out whether they had embarked in the steamship "Boatswain Hitch" which was scheduled to leave

Jolo that evening, but as the boat had already left when they arrived at the pier, they sought the Mayor of Jolo and asked for the latter's help. The Mayor of Jolo accompanied them to the Philippine Constabulary headquarters in Jolo and asked Major Lao for help. The latter sent a telegram to the commanding officer of the constabulary forces at Isabela, City of Basilan, asking that a search be made for those girls on board the steamship "Boatswain Hitch" as soon as it docked at that port. After that Mary Tan and Sabdatul Mohammad retired to their respective homes as it was already 11:00 o'clock in the evening.

On the following morning, Mary Tan and Sabdatul Mohammad resumed their search for the missing girls. They met one Tech Poh Tan who informed them that the previous evening he had seen two girls with a bundle each under their arms headed for the house of Luis Sims. Thus informed, Mary Tan and Sabdatul Mohammad immediately proceeded to the house of Luis Sims accompanied by Tech Poh Tan. There they found Diansin Yap and Inn Samain. Sabdatul Mohammad brought her daughter to her home, while Mary Tan took her niece to her home. On August 10, 1955, the complaints by which these cases were initiated were filed.

The defendant, testifying in her behalf, admitted having entered the service of Mary Tan as maid on July 2, 1955, and left it on July 31, 1955, because she was not satisfied with the treatment accorded her by Mary Tan whom, she alleged, was temperamental and used to scold her even for slight mistakes. She further admitted that while in the service of Mary Tan she had intimate conversations with Diansin Yap; that in those conversations, answering Diansin Yap's inquiries, she told her that she was from Dumaguete, that Dumaguete was small like Jolo, that she had been in the City of Manila, and that the City of Manila was a big city where big movie houses and other places of amusement were found. The defendant, however, denied having invited and induced Diansin Yap, much less Inn Samain with whom she was not acquainted, to go with her to Manila and promised them that she would defray all the expenses incident to the trip and their stay in that city, as she had no money, and, being a mere maid, her income was very small.

The main contention of the defense is that the trial court erred in convicting the appellant in each of the cases before us of the crime of inducing a minor to abandon her home. It is claimed that the evidence does not prove beyond reasonable doubt her guilt of that crime.

We are of the opinion that the contention of the defense is not without foundation. Article 271 of the Re-

vised Penal Code, under which the appellant was convicted, provides:

"Art. 271. Inducing a minor to abandon his home.—The penalty of *prisión correccional* and a fine not exceeding seven hundred pesos shall be imposed upon any one who shall induce a minor to abandon the home of his parents or guardian or the person entrusted with his custody.

"If the person committing any of the crimes covered by the two preceding articles shall be the father or mother of the minor, the penalty shall be *arresto mayor* or a fine not exceeding three hundred pesos, or both."

The first paragraph of the above-quoted codal provision is a reproduction with slight modifications of the first paragraph of Article 486 of the old Penal Code, which, in turn, was copied from Article 510 of the Penal Code of Spain. F. Puig Peña, commenting on Article 510 of the Spanish Penal Code, said:

"Los elementos de estos delitos son:

1.o *Que se induzca a un menor de edad y mayor de siete años a abandonar su domicilio.*—La doctrina entiende: a) Que ha de tratarse de una inducción. Si se emplea fuerza, habrá o detención ilegal o coacciones; si se emplean amenazas, tendríamos un delito de este tipo; b) Que tiene que tratarse de un menor de edad, pero mayor de siete años.

"2.o *Que se haga dolosamente, sin que importa el móvil de la inducción.*—El dolo del autor tiene que abarcar: a) la conciencia de la minoría de edad del inducido; b), la conciencia de que el menor se halla en casa de sus guardadores y que con el acto lo sustraer a la vigilancia paterna."

IV F. Puig Peña, Derecho Penal, 137-138.

Eugenio Cuello Calon, commenting on the same article, said:

"El elemento subjetivo de este delito está integrado por la voluntad de inducir al menor con conciencia de su minoría de edad y con conciencia de hallarse en la casa de sus padres, tutoras ó encargados de su persona. Es indiferente el móvil que lo inspire," etc. II E. C. Calon, Derecho Penal, Novena Ed., 717.

And A. Quintano Ripoles had the following to say:

"La intencion de sustraer, esto es, de apartar al menor de la esfera de potested a que se *halla* legítimamente sometido, lo que pudieramos llamar "*animus abdueendi*", no tiene en si y por si justificacion alguna en lo jurídico; es un "hecho", un "acontecimiento", no una acción *valorable*. Para que lo sea es necesario que ese acontecimiento "físico" esté determinado por una volición no meramente psíquica, sino antijurídica, de proposito lesivo." II A. Quintano Ripoles, Comentarios al Código Penal, 346.

On the other hand, the lexicographers say that the verb "to induce", as a transitive verb, means—

"To lead on; to influence; to prevail on; to move by persuasion or influence." Webster's International Dictionary of the English Language, Second Ed., p. 1269.

"To influence to an act or course of conduct; lead by persuasion or reasoning; incite by motives; prevail on; as, to induce

a man to stop drinking." Funk and Wagnalls New Standard Dictionary of the English Language, p. 1253.

In the instant case, it may be considered as proven that in a conversation she had with the minors Diansin Yap and Inn Samain the appellant told said minors that Manila was a big city; that the movie houses there were bigger and better than those found in Jolo; that the City was a better place to live in; that she would take them with her to Manila, and that they need not worry about the expenses incident to their going to and stay in that City as she would defray them all. It should be remembered, however, that the parties concerned were all minors. The appellant was 19 years old, and Diansin Yap and Inn Samain were 14. There was then very little difference in their ages. That the appellant was a mere maid, which connotes the idea that she had not had the privilege of much schooling, while Diansin Yap and had Samain are school children, the former being the niece and the latter the daughter of ladies who were much more affluent than the appellant. Hence, there could not have been much difference in their degree of intelligence. It cannot be supposed, therefore,, that the appellant commanded such ascendancy over said minors as to be able to prevail on them, or that the latter were so gullible as to believe outright the promise of a mere maid, a minor like them, with no other source of income except the small salary that she was receiving as such. The probabilities are that these girls abandoned their respective homes moved by that irresponsible spirit of restlessness and adventure which is commonly found in the youth of today, and not because of the offer and promise made them by the appellant.

As we analyze the evidence, the untenableness of the conviction of the appellant of the crime at bar becomes apparent. In order for an inducement of a minor to abandon the home of his parents or guardian or the person entrusted with his custody to constitute the crime penalized under Article 271 of the Revised Penal Code, it is essential that the inducement be actual, committed with criminal intent, and determined by a will to cause damage. These requirements are not deducible from the evidence. The representations made by the appellant to said minors highly praising the City of Manila and her offer and promise to take them to that city, as narrated above, clearly do not constitute that inducement "que se haga dolosamente", or "determinado por una volicion no meramente psiquica, sino antijuridica, de proposito lesivo", which according to Puig Peña and Quintano Ripoles, respectively, is essential to the act, or "to influence; to

prevail on; to move by persuasion or influence; to incite by motives", as the lexicographers define to be the meaning of the verb "to induce".

We are, therefore, of the opinion that the evidence fails to prove, beyond a reasonable doubt, the guilt of the appellant of the crimes of which she was convicted. This doubt must be resolved in her favor. Accordingly, the judgment appealed from is hereby reversed, and another is hereby entered in the above-entitled cases, acquitting the appellant, Suela Paalam, of the crimes of inducing a minor to abandon his home charged therein. Costs *de oficio*.

IT IS SO ORDERED.

Sanchez and Angeles, JJ., concur.

Judgment reversed; appellant acquitted.

LEGAL AND OFFICIAL NOTICES

Courts of First Instance

[FIRST PUBLICATION]

REPUBLIC OF THE PHILIPPINES
COURT OF FIRST INSTANCE OF CEBU

CASE No. 396.—*In re petition for Philippine citizenship by GAVINO UY COSIN*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP

To the Honorable Solicitor General and Mr. Gavino Uy Cosin petitioner, and to all whom it may concern:

Whereas, a petition for Philippine citizenship pursuant to Commonwealth Act No. 473, as amended by Commonwealth Act No. 535, has been presented to this Court of First Instance of Cebu by Gavino Uy Cosin who alleges that he was born in Cebu City, Philippines on January 30, 1925; that he is a resident of 312 Juana Osmeña St. Cebu City; that his trade or profession is that of Employee GO OCCO & CO., that he is married that his wife's name is Dominga Go Po Tin-Poa, who was born in Cebu City, on May 12, 1926 and now resides at 312 Juan Osmeña St., Cebu City; that he has children, and the name, date and place of birth, and place of residence of each of said children are as follows: 1. Elaine Uy Cosin August 4, 1955, Cebu City; 2. Gilbert Uy Cosin, August 5, 1956, Cebu City; 3. Jennifer Uy Cosin, November 17, 1957, Cebu City; that he is able to speak and write English Chinese and Cebu-Visayan dialect; that he is entitled to the benefit of Commonwealth Act No. 353 (which exempts any person born in the Philippines or has resided thereat for a period of thirty (30) years from the filing of the declaration of intention) for the following reasons: that he has resided continuously for 30 years and is born in the Philippines; citing Messrs. Dr. Alejandro C. Baltazar and Rodolfo Esplanada Sr. both citizens of the Philippines, as the witnesses whom the petitioner proposes to introduce in support of his petition;

Therefore, you are hereby given notice that said petition will be heard by this Court, on the 8th day of August, 1959 A. D., at 8:30 a.m., and

It is hereby ordered that this notice be published once a week for three consecutive weeks in the *Official Gazette* and in the *Republic Daily*, a newspaper of general circulation in the province/city of Cebu where the petitioner resides, and that such petition and this notice be posted in a public and conspicuous place in the office of the Clerk of Court.

Witness the Hon. Jose S. Rodriguez, Judge of the Court of First Instance of Cebu Branch IV, this 20th day of November in the year nineteen hundred and fifty-eight.

Attest:
[36-38]

VICENTE A. MIRANDA
Clerk of Court

REPUBLIC OF THE PHILIPPINES
COURT OF FIRST INSTANCE OF COTABATO
SIXTEENTH JUDICIAL DISTRICT
FIRST BRANCH

NATURALIZATION CASE No. 44.—*In the matter of the petition of CO CHIAO SIU to be admitted citizen of the Philippines. CO CHIAO SIU, petitioner.*

AMENDED NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP

To the Honorable, the Solicitor General, Manila; the Honorable, the Secretary of Interior, Manila; Co Chiao Siu, M'lang, Cotabato; and to all whom it may concern:

Whereas, a petition to be admitted as a citizen of the Philippines, pursuant to Commonwealth Act No. 473, as amended by Commonwealth Act No. 535, has been presented to this Court by Co Chiao Siu, through his counsel Atty. Silverio C. de Leon, who alleges that he was born on June 1, 1900, in Amoy, China, of Chinese parentage; that his present place of residence is M'lang, Cotabato, Philippines, where he has continuously resided since sometime 1946; that he is at present a citizen or subject of the Republic of Nationalist China, under whose laws Filipinos may become naturalized citizens or subjects thereof; that he arrived in the Philippines on January 21, 1913 aboard the "SS Tia Sing" from Amoy, China and since then has continuously resided in the Philippines; that he was issued an Immigrant Certificate of Residence No. 118408 on December 22, 1952 by the Commissioner and Alien Certificate of Registration No. 80237 on January 13, 1951, the former having been issued in Manila, Philippines and the latter in the Municipality of Pototan, Province of Iloilo, Philippines; that he is married to Tabita Pedregosa and to which marriage they have begotten one child, Williamson Co, who was born in January, 1929 at Palanguia, Pototan, Iloilo and who studied in the Philippine

Central College (now Philippine Central University), a private school, situated in the City of Iloilo, Philippines, where Philippine History, and Government Civics are taught or prescribed as part of the school curriculum; that he knows how to speak, read and write English language and the local Visayan dialect; that he is employed by Isabel Domingo with a monthly salary of ₱120.00; that he is exempted from filing a declaration of intention to become a Filipino citizen because he has resided continuously in the Philippines for more than thirty years and that he studied his primary and secondary education in schools recognized by the government which is not limited to any race or nationality and where civics, history and government of the Philippines are taught; and that he cites Messrs. Rodolfo Buenaflo and Fernando F. Caballero of legal ages and residents of M'lang, Cotabato, who are both Filipinos, to appear and testify as his witnesses at the hearing of this petition.

Therefore, you are hereby notified that the said petition is set for hearing on July 11, 1959, at 8:30 a.m., in the session hall of this Court at Cotabato, Cotabato, at which date, time and place all persons interested should appear and show cause, if any they have, why the said petition shall not be granted.

Let this notice be published, at the expense of the petitioner, for three consecutive times, in the *Official Gazette*, the last publication of which shall not be less than six months from the date of the hearing, and for a like number of times, in the *Mindanao Cross*, a newspaper edited in the Province of Cotabato, Philippines, and of general circulation in the same province, where the petitioner resides, and that a copy hereof be posted in the bulletin board of this Court.

Witness the Honorable Juan A. Sarenas, District Judge of this Court, this 14th day of November, 1958.

JUANITO MAPALO
Clerk of Court

By: FRANCISCO G. ALALAN
Deputy Clerk of Court

[36-38]

REPUBLIC OF THE PHILIPPINES
COURT OF FIRST INSTANCE OF DAVAO
SIXTEENTH JUDICIAL DISTRICT
BRANCH III

NATURALIZATION CASE No. 113.—*In the matter of the petition of CHI HOI, to be admitted a citizen of the Philippines.*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP
To the Honorable Solicitor General and to the petitioner Chi Hoi, Uyanguren St., Davao City, Philippines, and to all whom it may concern:

Whereas, a petition for Philippine citizenship pursuant to Commonwealth Act No. 473 as amend-

ed, has been presented in this Court, by Chi Hoi, who alleges that he is a resident of Uyanguren St., Davao City, Philippines; that he was born on September 30, 1911, in Canton, China; that he is an employee of Man Sang Bakery, located at Uyanguren St., Davao City, with a monthly salary of ₱150.00, free board; that he is married but has no children with his wife Erlinda Ner who was born on April 8, 1936, in Malitbog, Leyte, and now resides with him at Uyanguren St., Davao City, Philippines; that he emigrated to the Philippines from Canton, China, aboard the vessel *S/S President Lincoln*, and arrived on April 1926 at the port of Manila, Philippines; that he resided continuously in the Philippines for a term of 32 years at least, immediately preceding the date of this petition, to wit, since 1926, and in the City of Davao, Philippines, for a term of one year immediately preceding the date of this petition; that he is able to speak and write English, Visayan and Tagalog; that he has not filed a declaration of intention as he is exempted therefrom by reason of his 32 years of continuous residence in the Philippines prior to the filing of this petition; and that he cites Messrs. Vicente Freire and Avelino Panlo, both of legal age, residing at Davao City, Philippines, who are both Filipino citizens, to appear and testify as his witnesses at the hearing of the herein petition.

Wherefore, you are hereby given notice that said petition will be heard by this Court, on the 8th day of June, 1959, at 8:30 a.m.

Let this notice be published at the expense of the petitioner, in the *Official Gazette*, for three consecutive issues thereof, and once a week for three consecutive weeks, in the *Davao Bulletin*, a newspaper of general circulation in the City and Province of Davao, where the petitioner resides, and also let the said petition and this notice be posted in a public and conspicuous place in the Office of the Clerk of Court.

Witness the Hon. Honorio Romero, Judge of the Court of First Instance of Davao, Branch III, this 4th day of November in the year nineteen hundred and fifty-eight.

ERIBERTO A. UNSON
Clerk of Court

[36-38]

REPUBLIC OF THE PHILIPPINES
COURT OF FIRST INSTANCE OF ILOCOS NORTE
SECOND JUDICIAL DISTRICT

NATURALIZATION CASE No. 24.—*Re: Petition for citizenship. PAZ GO PALANCA, petitioner*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP
To the Honorable Solicitor General, Manila, and the petitioner Paz Go Palanca, Laoag, Ilocos Norte, and to all whom it may concern:

Whereas, a verified petition for Philippine citizenship pursuant to Commonwealth Act No. 473

as amended has been presented before this Court by Paz Go Palanca, who alleges that she was born on August 4, 1936 in Laoag, Ilocos Norte, where she has resided since birth, of parents who were, as is the petitioner, citizens of the Republic of China under whose laws Filipinos may become naturalized citizens or subjects thereof; that she is single and is presently a third year student in the College of Law of St. Williams College, Laoag, Ilocos Norte; that she is partly a working student, earning from her employment an income sufficient for her support and maintenance; that she speaks and writes proficiently in Ilocano and English and has a smattering of Tagalog and Spanish; that she is of good moral character and believes in the principles underlying the Philippine Constitution; that she possesses all the qualifications for admission to Philippine citizenship and is not suffering from any disqualifications set forth in Section 4 of Commonwealth Act No. 473 or in any law for that matter; that it is the intention of the petitioner in good faith to become a citizen of the Philippines and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, particularly to the Republic of China; that she has not heretofore made or filed any petition for citizenship with any court; that she has filed a declaration of her intention to apply for Philippine Citizenship with the Department of Justice; and that she cites the Honorable Judge Julio Villamor and Mrs. Manuela R. Aban, both of whom are citizens of the Philippines, and such other persons as may be qualified to testify, will appear as witnesses for the petitioner at the hearing of this petition.

Therefore, you are hereby given notice that the said petition will be heard by this Court on March 26, 1959, at 8:00 o'clock in the morning in the court room, municipal building, Laoag, Ilocos Norte.

It is hereby ordered that this notice be published, at the expense of the petitioner, for three consecutive times in the *Official Gazette* and once a week for three consecutive weeks in the newspaper *El Nacion*, edited in the City of Manila and of general circulation in the province where the petitioner resides and also let the petition and this notice be posted in a public and conspicuous place in the office of the Clerk of Court.

Witness the Hon. Delfin B. Flores, Judge of this Court, this 22nd day of July, 1958.

ANGEL V. JAMIAS
Clerk of Court

[36-38]

REPUBLIC OF THE PHILIPPINES
COURT OF FIRST INSTANCE OF LAGUNA
EIGHTH JUDICIAL DISTRICT

CASE NO. SC-20.—*In the matter of the petition of Sy Ban to be admitted a citizen of the Philippines.*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP

To the Honorable Solicitor General, Manila, and Sy Ban, Santa Cruz, Laguna, and to all whom it may concern:

Whereas, a petition for Philippine citizenship pursuant to Commonwealth Act No. 473, as amended by Act No. 535, has been presented in the Court of First Instance of Laguna by Sy Ban, who alleges that he was born in September 5, 1921 in Sy Chu, China; that he is a resident of Santa Cruz, Laguna; that he is a businessman by profession from which he derives an average annual income of ₱10,700; that he is married to Elvira Lim who was born in Santa Cruz, Laguna, with whom he has seven children, all born also in Santa Cruz, Laguna, and reside with him thereat, namely: Henry, Baby, Carmela, George, Charley, Francisco Lim and Saldy, all surnamed Ng Sy, born on November 27, 1947, March 6, 1950, May 28, 1951, July 27, 1952, June 23, 1954, August 8, 1956 and February 7, 1958, respectively; that he emigrated to the Philippines from Sy Chu, China, on or about the 1st day of August, 1936, and arrived at the port of Manila on the vessel *SS Anking*; that he is able to write, speak and understand Tagalog and English; that he has enrolled his children of school age, namely, Henry, Baby and Carmela in the Westminster High School in Manila, Chinese Elementary School in Santa Cruz, Laguna, and Carmela in the Sta. Cruz Elem. School; that he has resided continuously in the Philippines for a term of 22 years at least, immediately preceding the date of this petition, to wit, since 1936, and in Santa Cruz, Laguna, for a term of one year at least, immediately preceding the date of this petition; and cites Messrs. Dominador E. Chipeco and Salustiano Ramos, both of legal age, Filipino citizens and residents of Santa Cruz, Laguna, as witnesses whom he proposes to introduce in support of his petition at the hearing thereof, attaching his declaration of intention and landing certificate of residence to his petition;

Therefore, you are hereby given notice that said petition will be heard by this Court on the 6th day of March, 1959 at 9:00 a.m., in the session hall of this Court in Santa Cruz, Laguna.

Let this notice be published at the expense of the petitioner for three consecutive issues of the *Official Gazette* and, once a week for three consecutive weeks, in the *La Nacion*, a newspaper edited in the City of Manila and of general circulation in the province of Laguna where the petitioner resides, and also let the said petition and this notice be posted at a public conspicuous place in the office of the Clerk of Court.

Witness the Hon. Francisco Arca, Judge of the Court of First Instance of Laguna, Second Branch, this 12th day of June, 1958 at Sta. Cruz, Laguna.

CECILIO M. BITUIN
Clerk of Court

[36-38]

REPUBLIC OF THE PHILIPPINES
COURT OF FIRST INSTANCE OF LAGUNA
EIGHTH JUDICIAL DISTRICT

CASE No. SC.—21.—*In the matter of the petition of JOSE CHUA TECO to be admitted a citizen of the Philippines.*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP

To the Honorable Solicitor General, Manila, and Jose Chua Teco, Pagsanjan, Laguna, and to all whom it may concern:

Whereas, a petition for Philippine citizenship pursuant to Commonwealth Act No. 473, as amended by Act No. 535, has been presented in this Court of First Instance of Laguna by Jose Chua Teco, who alleges; that he was born on the 6th day of November, 1927 in Pagsanjan, Laguna; that he is a resident of Pagsanjan, Laguna; that he is a merchant by profession in which he has been engaged since 1948 deriving therefrom an average annual income of not less than P5,000; that he is married to Beata Sy, who was born in Ligao, Albay, with whom he has four children, all born in Manila but reside with him in Pagsanjan, Laguna, to wit: Juliet, Romeo, Fely and Linda, all surnamed Chua Teco, born on March 23, 1953, March 24, 1954, August 28, 1955 and March 11, 1958, respectively; that he is able to speak and write Tagalog and English, having studied at the Pagsanjan Elementary school and completed the fifth grade; that he has resided continuously in the Philippines since birth except in 1933 when he left for China and returned on March 28, 1934; and cites Messrs. Ricardo Buenafe and Quinti Cabrera, both of legal age, Filipino citizens and residents of Pagsanjan, Laguna, as witnesses whom he proposes to introduce in support of his petition at the hearing thereof, attaching his alien certificate of registration to the petition.

Therefore, you are hereby given notice that said petition will be heard by this Court on the 12th day of March, 1959 at 9:00 a.m., in the session hall of this Court in Santa Cruz, Laguna.

Let this notice be published at the expense of the petitioner for three consecutive issues of the *Official Gazette* and, once a week for three consecutive weeks, in the *La Naeion*, a newspaper edited in the City of Manila and of general circulation in the Province of Laguna, where the petitioner resides, and also let the said petition and this notice be posted at a public conspicuous place in the office of the Clerk of Court.

Witness the Hon. Francisco Arca, Judge of the Court of First Instance of Laguna, Second Branch, this 12th day of June, 1958 at Sta. Cruz, Laguna.

CECILIO M. BITUIN
Clerk of Court

REPUBLIC OF THE PHILIPPINES
COURT OF FIRST INSTANCE OF LAGUNA
EIGHTH JUDICIAL DISTRICT

CASE No. SC—22.—*In the matter of the petition of CHING BENG YONG to be admitted a citizen of the Philippines.*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP

To the Honorable Solicitor General, Manila, and Ching Beng Yong, Regidor St., Santa Cruz, Laguna, and to all whom it may concern:

Whereas, a petition for Philippine citizenship pursuant to Commonwealth Act No. 473, as amended by Act No. 535, has been presented in this Court of First Instance of Laguna by Ching Beng Yong, who alleges; that he was born on the 18th day of April, 1925 in Amoy, China; that he is a resident of Santa Cruz, Laguna; that he is by profession an assistant manager of a duck and poultry business at barrio Santisima Cruz, Santa Cruz, Laguna, since June 1956 receiving a salary of P200 a month; that he is single; that he is able to speak and write the English language and the Tagalog dialect; that he emigrated to the Philippines from Amoy, China, on or about the 20th day of May, 1936, and arrived at the port of Manila on the vessel *SS Angking*; that he has resided continuously in the Philippines for a term of more than 2 years immediately preceding the date of this petition, to wit, since May 20, 1936, and in the municipality of Santa Cruz, Laguna, during the said period of more than 2 years; and cites Messrs. Lazaro Limjuico, Florentino Santos and Democrito Santos, all of legal age, Filipino citizens and residents of Santa Cruz, Laguna, as witnesses whom he proposes to introduce in support of his petition at the hearing thereof, attaching thereto his declaration of intention and alien certificate of residence No. A-100530.

Therefore, you are hereby given notice that said petition will be heard by this Court on the 24th day of March, 1959 at 9:00 a.m., in the session hall of this Court in Sta. Cruz, Laguna.

Let this notice be published at the expense of the petitioner for three consecutive issues of the *Official Gazette* and, once a week for three consecutive weeks, in the *La Naeion*, a newspaper edited in the City of Manila and of general circulation in the Province of Laguna where the petitioner resides, and also let the said petition and this notice be posted at a public conspicuous place in the office of the Clerk of Court.

Witness the Hon. Francisco Arca, Judge of the Court of First Instance of Laguna, Second Branch, this 11th day of July, 1958 at Sta. Cruz, Laguna.

CECILIO M. BITUIN
Clerk of Court

REPUBLIC OF THE PHILIPPINES
 COURT OF FIRST INSTANCE OF MANILA
 SIXTH JUDICIAL DISTRICT
 BRANCH IV

CASE No. 38476.—*In the matter of the petition of JAMES A. HUANG to be admitted a citizen of the Philippines.*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP

To the Honorable Solicitor General and to Mr. Emmanuel T. Jacinto, Attorney for the petitioner, 514 Ayala Boulevard, Manila, and to all whom it may concern:

Whereas, a petition for Philippine citizenship pursuant to Commonwealth Act No. 473 as amended, has been presented in this Court, by James A. Huang, who alleges that he is a resident of No. 1051 Misericordia street, Manila; that he was born in Chinkang, China, on December 27, 1917; that his trade or profession is Employee of the Yek Tong Lin Fire & Marine Insurance Co. Ltd., in which he has been engaged since 1956, and from which he derives an average annual income of P3,600 plus commission, more or less; that he is married; that his wife's name is Trinidad Agbulos, who was born in Santa Maria, Ilocos Sur and now resides at No. 1051 Misericordia street, Manila; that he has six children, named Job Huang and Jessie Agbulos Huang, both born in Santa Maria, Ilocos Sur, on April 12, 1945 and September 22, 1956, respectively, Joseph Emmanuel Huang, James Huang, Jr., Jemina A. Huang and John Huang, all born in Manila, on December 25, 1946, August 20, 1949, December 27, 1951 and November 17, 1953, respectively, and all residing at 1051 Misericordia street, Manila; that he emigrated to the Philippines from Amoy, China, on or about August 1, 1930, and arrived at the port of Manila on the vessel *Maearia*; that he has resided continuously in the Philippines for at least twenty-eight years, and in the City of Manila for a period of at least one year immediately preceding the date of the petition; that he enrolled his children named Job Huang at the Manila Chinese Patriotic School, Joseph Huang at the St. Stephen's High School, and James Huang, Jr., and Jamina Huang at the Hope Christian High School; that he filed a declaration of intention on June 18, 1949; that he can speak, read and write English and Tagalog; that he filed a petition for naturalization before the Court of First Instance of Manila on October 24, 1952, but the same was dismissed for his failure to register his wife and children as aliens with the Bureau of Immigration; and that he cites Messrs. Alfredo V. Jacinto, Gumersindo Garcia and Catalino Guansing, as witnesses whom he proposes to introduce in support of his petition.

Wherefore, you are hereby given notice that said petition will be heard by this Court, on the 30th day of September, 1959, at 8:30 a.m.

Let this notice be published at the request and expense of the petitioner, in the *Official Gazette*, for three consecutive issues thereof, and once a week for three consecutive weeks, in the *Daily Mirror*, a newspaper of general circulation in the City of Manila, where the petitioner resides, and also let the said petition and this notice be posted in a public and conspicuous place in the office of the Clerk of Court.

Witness the Hon. Antonio Cañizares, Judge of the Court of First Instance of Manila, this 19th day of November, in the year nineteen hundred and fifty-eight.

Attest:
 [36-38]

MACARIO M. OFILADA
Clerk of Court

REPUBLIC OF THE PHILIPPINES
 COURT OF FIRST INSTANCE OF MANILA
 SIXTH JUDICIAL DISTRICT
 BRANCH I

CASE No. 38479.—*In the matter of the petition of LUIS CHUA CHIACO to be admitted a citizen of the Philippines.*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP

To the Honorable Solicitor General and to Mr. Emiliano J. Tuason, Attorney for the petitioner, Manila, and to all whom it may concern:

Whereas, a petition for Philippine citizenship pursuant to Commonwealth Act No. 473 as amended, has been presented in this Court, by Luis Chua Chiaco, who alleges that he is a resident of No. 375 Juan Luna street, Manila; that he was born on April 10, 1933, in Manila; that his trade or profession is employee, in which he has been engaged since June 1, 1955, and from which he derives an average annual income of P1,800; that he is single; that he has resided continuously in the Philippines for a term of twenty-five years, immediately preceding the date of the petition; and in the City of Manila, for a term of one year at least, immediately preceding the date of the petition, to wit: since the year 1933; that he is able to speak and write Chinese, English and Tagalog; that he is exempted from filing a declaration of intention, because he was born in the Philippines and a High School Graduate; and that he cites Messrs. Gaudencio Dypiangco and Felipe M. Fonacier, as witnesses whom he proposes to introduce in support of his petition.

Wherefore, you are hereby given notice that said petition will be heard by this Court, on the 29th day of September, 1959, at 8:30 a.m.

Let this notice be published at the request and expense of the petitioner, in the *Official Gazette*, for three consecutive issues thereof and once a

week for three consecutive weeks, in the *Voz de Manila*, a newspaper of general circulation in the City of Manila, where the petitioner resides, and also let the said petition and this notice be posted in a public and conspicuous place in the Office of the Clerk of Court.

Witness the Hon. Froilan Bayona, Judge of the Court of First Instance of Manila, this 20th day of November, in the year nineteen hundred and fifty-eight.

Attest: **MACARIO M. OFILADA**
[36-38] *Clerk of Court*

REPUBLIC OF THE PHILIPPINES
COURT OF FIRST INSTANCE OF MANILA
SIXTH JUDICIAL DISTRICT
BRANCH IX

CASE No. 38179.—*In the matter of the petition of FRANCISCO LEUNG to be admitted a citizen of the Philippines.*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP
To the Honorable Solicitor-General and to Mr. Jose M. Aruego, Attorney for the petitioner, 1128 Washington street, Manila, and to all whom it may concern:

Whereas, a petition for Philippine citizenship pursuant to Commonwealth Act No. 473 as amended, has been presented in this Court, by Francisco Leung, who alleges that he is a resident of No. 432 Balmes Street, Manila; that he was born on August 27, 1935, in the City of Manila; that his trade or profession is student, and also employee, in which he derives a regular monthly income; that he is single; that he has resided continuously in the Philippines for a period of twenty-three years, and in the City of Manila, for a term of one year at least, immediately preceding the date of the petition; that he is able to speak and write English and Tagalog; that he is exempted from the requirement of making a declaration of intention, he having been born in the Philippines and received his primary and secondary education in a private school recognized by the Government; and that he cites Messrs. Jose C. Sebastian and Demetrio del Mundo, as witnesses whom he proposes to introduce in support of his petition.

Wherefore, you are hereby given notice that said petition will be heard by this Court on the 3rd day of August, 1959, at 8:30 a.m.

Let this notice be published at the request and expense of the petitioner, in the *Official Gazette*, for three consecutive issues thereof, and once a week for three consecutive weeks, in the *World Current Events*, a newspaper of general circulation in the City of Manila, where the petitioner resides, and also let the said petition and this notice be posted in a public and conspicuous place in the Office of the Clerk of Court.

Witness the Hon. Ramon O. Nolasco, Judge of the Court of First Instance of Manila, this 23rd day of October, in the year nineteen hundred and fifty-eight.

Attest: **MACARIO M. OFILADA**
[36-38] *Clerk of Court*

REPUBLIC OF THE PHILIPPINES

COURT OF FIRST INSTANCE OF MANILA
SIXTH JUDICIAL DISTRICT
BRANCH XIX

CASE No. 38180.—*In the matter of the petition of CHIU BIN to be admitted a citizen of the Philippines.*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP

To the Honorable Solicitor-General and to Mr. Jose M. Aruego, Attorney for the petitioner, 1128 Washington Street, Manila, and to all whom it may concern:

Whereas, a petition for Philippine citizenship pursuant to Commonwealth Act No. 473 as amended, has been presented in this Court, by Chiu Bin, who alleges that he is a resident of Nos. 821-823 R. Hidalgo Street, Manila; that he was born on March 30, 1936, in the City of Manila; that his trade or profession is student, and also an employee, in which he derives a regular monthly income; that he is single; that he has resided continuously in the Philippines for a period of twenty-two years, and in the City of Manila, for a term of one year at least, immediately preceding the date of the petition; that he is able to speak and write English and Tagalog; that he is exempted from the requirement of making a declaration of intention, he having been born in the Philippines and received his primary and secondary education in a private school recognized by the Government; and that he cites Messrs. Narciso Parayno, Clotilde C. Hernandez and Victoriano Diamonon, as witnesses whom he proposes to introduce in support of his petition.

Wherefore, you are hereby given notice that said petition will be heard by this Court on the 4th day of August, 1959, at 8:30 a.m.

Let this notice be published at the request and expense of the petitioner, in the *Official Gazette*, for three consecutive issues thereof, and once a week for three consecutive weeks, in the *World Current Events*, a newspaper of general circulation in the City of Manila, where the petitioner resides, and also let the said petition and this notice be posted in a public and conspicuous place in the office of the Clerk of Court.

Witness the Hon. Julio Villamor, Judge of the Court of First Instance of Manila, this 23rd day of October, in the year nineteen hundred and fifty-eight.

Attest: **MACARIO M. OFILADA**
[36-38] *Clerk of Court*

REPUBLIC OF THE PHILIPPINES
 COURT OF FIRST INSTANCE OF MANILA
 SIXTH JUDICIAL DISTRICT
 BRANCH IX

CASE No. 38413.—*In the matter of the petition of PEDRO UY, nicknamed UY KHENG YAO to be admitted a citizen of the Philippines.*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP

To the Honorable Solicitor General and to Mr. Gaudioso T. Antaran, Attorney for the petitioner, 484 Rosario Street, Manila, and to all whom it may concern:

Whereas, a petition for Philippine citizenship pursuant to Commonwealth Act No. 473 as amended, has been presented in this Court, by Pedro Uy, nicknamed Uy Kheng Yao, who alleges that he is a resident of No. 935-D Magdalena Street, Manila; that he was born on February 28, 1930, in Liang Kue, Fookien, China; that his trade or occupation is salesman, in which he has been engaged since the year 1956, and from which he derives an average annual income during the last two years of not less than P2,000.00; that he is single and has not any child; that he emigrated to the Philippines from Liang Kue, Fookien, China, on or about January 27, 1938 and arrived at the port of Manila on the vessel *Angking*; that he has resided continuously in the Philippines for a term of twenty years, and in the City of Manila, for a term of one year at least, immediately preceding the date of the petition; that he is able to speak and write English and Tagalog; that on October 28, 1957, he filed his declaration of intention to become a citizen of the Philippines with the Office of the Solicitor General; and that he cites Messrs. Conrado O. Espiritu and Paulino Ramones, as witnesses whom he proposes to introduce in support of his petition.

Wherefore, you are hereby given notice that said petition will be heard by this Court, on the 21st day of September, 1959, at 8:30 a.m.

Let this notice be published at the request and expense of the petitioner, in the *Official Gazette*, for three consecutive issues thereof, and once a week for three consecutive weeks, in the *Daily Record*, a newspaper of general circulation in the City of Manila, where the petitioner resides, and also let the said petition and this notice be posted in a public and conspicuous place in the Office of the Clerk of Court.

Witness the Hon. Ramon O. Nolasco, Judge of the Court of First Instance of Manila, this 13th day of November, in the year nineteen hundred and fifty-eight.

Attest:
 [36-38]

MACARIO M. OFILADA
 Clerk of Court

REPUBLIC OF THE PHILIPPINES
 COURT OF FIRST INSTANCE OF MANILA
 SIXTH JUDICIAL DISTRICT
 BRANCH I

CASE No. 38414.—*In the matter of the petition of TIU LI to be admitted a citizen of the Philippines.*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP

To the Honorable Solicitor General and to Mr. Gaudioso T. Antaran, Attorney for the petitioner, 484 Rosario Street, Manila, and to all whom it may concern:

Whereas, a petition for Philippine citizenship pursuant to Commonwealth Act No. 473 as amended, has been presented in this Court, by Tiu Li, who alleges that he is a resident of No. 1407 Azcarraga street, Manila; that he was born on May 3, 1925, in Tiu Chu, Amoy, China; that his occupation is employee, in which he has been engaged since the year 1948 and from which he derived an average annual income during the last three years of not less than P1,800; that he is married to Go San, a chinese woman, born on November 11, 1933, in Go Chu, Amoy, China, and now resides at No. 1407 Azcarraga street, Manila; that he has four children, named Rosa Tiu, Betty Tiu, Evelyn Tiu and Josephine Tiu, all born in Manila, on October 27, 1949, June 25, 1951, August 31, 1952 and October 26, 1954, respectively, and all residing at 1407 Azcarraga street, Manila; that he emigrated to the Philippines from Amoy, China, on or about September 30, 1935, and arrived at the port of Manila, on the vessel *Angking*; that he has resided continuously in the Philippines for a term of one year at least, immediately preceding the date of the petition; that he is able to speak and write English and Tagalog; that his children named Rosa, Betty and Evelyn Tiu are enrolled at the Hope Chirstian High School; that on August 7, 1957, he filed with the Office of the Solicitor General his declaration of intention to become a citizen of the Philippines; and that he cites Messrs. Paciano Ogaesco, Enrique V. Guzman, Jr. and Julio T. Yap, Sr., as witnesses whom he proposes to introduce in support of his petition.

Wherefore, you are hereby given notice that said petition will be heard by this Court, on the 22nd day of September, 1959, at 8:30 a.m.

Let this notice be published at the request and expense of the petitioner, in the *Official Gazette*, for three consecutive issues thereof, and once a week for three consecutive weeks, in the *Voz de Manila*, a newspaper of general circulation in the City of Manila, where the petitioner resides, and also let the said petition and this notice be posted in a public and conspicuous place in the Office of the Clerk of Court.

Witness the Hon. Froilan Bayona, Judge of the Court of First Instance of Manila, this 13th day of November, in the year nineteen hundred and fifty-eight.

Attest:
[36-38]

MACARIO M. OFILADA
Clerk of Court

REPUBLIC OF THE PHILIPPINES
COURT OF FIRST INSTANCE OF MANILA
SIXTH JUDICIAL DISTRICT
BRANCH XIX

CASE No. 38415.—*In the matter of the petition of VICENTE UY to be admitted a citizen of the Philippines.*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP

To the Honorable Solicitor-General and to Mr. Anastacio S. Anastacio S. Angeles, Attorney for the petitioner, R-203 Roces Building, Manila, and to all whom it may concern:

Whereas, a petition for Philippine citizenship pursuant to Commonwealth Act No. 473 as amended, has been presented in this Court, by Vicente Uy, who alleges that he is resident of No. 829 Zacateros street, Manila; that he was born in Tong-an, China, on November 30, 1923; that his trade or profession is salesman of the Suy Hing Hardware Co. of No. 659 T. Alonso street, Manila, since 1946 with an average annual gross income of P3,500; that he is married; that his wife's name is Rosita Chionglo, who was born in Lucena, Quezon Province, and now resides at No. 829 Zacateros street, Manila; that he has two children, named Verena Sio Cuan Uy and Susan Uy Sio Tin, both born in Manila, on January 27, 1957 and February 3, 1958, respectively, and both residing at No. 829 Zacateros street, Manila; that he emigrated to the Philippines from China on or about June 10, 1931, and arrived at the port of Manila on the vessel *Susana*; that he has resided continuously in the Philippines for a term of more than twenty years, immediately preceding the date of the petition, to wit, since June 10, 1931 in the City of Manila; that he is able to speak and write English and Tagalog; that he is a partner in the business with trade name and style "Uy's Hardware Co.," located at No. 652 Rizal Avenue and his present worth is about P19,000.00; that he studied at the Anglo-Chinese School; that his two children are not yet of school age; that he cites Messrs. Marcelino S. Angeles, Gonzalo Bacani Tan and Jose Tan Tek Chian, as witnesses whom he proposes to introduce in support of his petition; and that attached to the petition is a copy of his declaration of intention to become a citizen of the Philippines.

Wherefore, you are hereby given notice that said petition will be heard by this Court, on the 24th day of September, 1959, at 8:30 a.m.

Let this notice be published at the request and expense of the petitioner, in the *Official Gazette*, for three consecutive issues thereof, and once a week for three consecutive weeks, in the *Daily Record*, a newspaper of general circulation in the City of Manila, where the petitioner resides, and also let the said petition and this notice be posted in a public and conspicuous place in the Office of the Clerk of Court.

Witness the Hon. Julio Villamor, Judge of the Court of First Instance of Manila, this 13th day of November, in the year nineteen hundred and fifty-eight.

Attest:
[36-38]

MACARIO M. OFILADA
Clerk of Court

REPUBLIC OF THE PHILIPPINES
COURT OF FIRST INSTANCE OF MANILA
SIXTH JUDICIAL DISTRICT
BRANCH XIII

CASE No. 38428.—*In the matter of the petition of YU LIN TIU to be admitted a citizen of the Philippines.*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP

To the Honorable Solicitor-General and to Miss Laura G. Poblete, Attorney for the petitioner, 2217 Misericordia, Manila, and to all whom it may concern:

Whereas, a petition for Philippine citizenship pursuant to Commonwealth Act No. 473 as amended, has been presented in this Court, by Yu Lin Tiu, who alleges that he is a resident of No. 1642 Dart street, Paco, Manila; that he was born on April 12, 1924, in Amoy, China; that his trade or profession is merchant, in which he has been engaged since 1954 and from which he derives an average annual income of P5,000; that he is married; that his wife's name is Chua Giok Lun, who was born in Amoy, China, and now resides at No. 1642 Dart street, Manila; that he has four children, named Manuel Ruben Yu, born October 12, 1950, in Laguna, Vicky Yu Anchim, Johnson Yu *alias* Yu Lua Chuan and Vily Yu *alias* Yu An Ly, all born in Manila, on August 27, 1953, November 25, 1954 and May 24, 1956, respectively, and all residing at 1642 Dart street, Manila; that he emigrated to the Philippines from China on December, 1937, and arrived at the port of Manila on the vessel *Kang Su*; that he has resided continuously in the Philippines for a term of twenty-one years, and in the City of Manila, for a term of one year at least, immediately preceding the date of the petition; that he is able to speak and write English and Tagalog; that his children named Manuel Ruben Yu and Vicky Yu Anchim are enrolled at the Paco Chinese School; that he filed his declaration of intention; and that he cites Messrs. Lydia Cuyugan, Herman Aviado, Eduardo Abad and Vergel Angeles, as